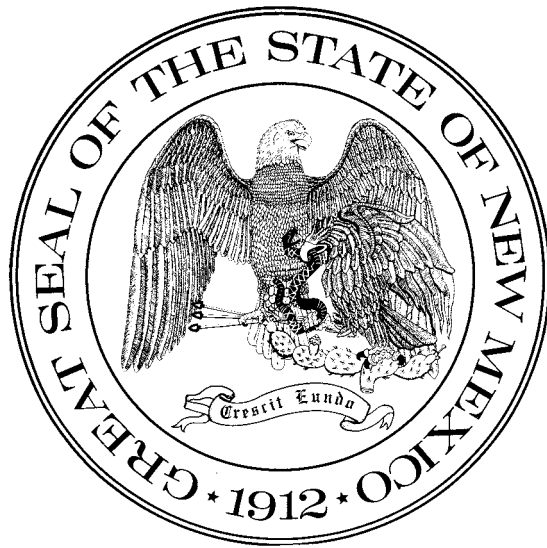


WATER AND NATURAL RESOURCES COMMITTEE

**2005
FINAL REPORT**



Santa Fe, New Mexico
December **2005**

2005 APPROVED WORK PLAN AND MEETING SCHEDULE
for the
WATER AND NATURAL RESOURCES COMMITTEE

Committee Members:

Sen. Carlos R. Cisneros, Chair
Rep. Joe M Stell, Vice Chair
Sen. Sue Wilson Beffort
Rep. Ray Begaye
Rep. Joseph Cervantes
Sen. Dede Feldman
Sen. Mary Jane M. Garcia
Rep. Dona G. Irwin
Rep. Larry A. Larrañaga

Rep. Kathy A. McCoy
Sen. Cynthia Nava
Sen. Steven P. Neville
Rep. Andy Nunez
Sen. Mary Kay Papen
Sen. H. Diane Snyder
Rep. Mimi Stewart
Rep. Sandra L. Townsend
Rep. Don L. Tripp

Advisory Members:

Sen. Rod Adair
Sen. Vernon D. Asbill
Rep. Richard P. Cheney
Rep. Anna M. Crook
Rep. Candy Spence Ezzell
Sen. Clinton D. Harden, Jr.
Sen. Timothy Z. Jennings
Sen. Gay G. Kernan
Rep. Rhonda S. King
Rep. Ben Lujan

Rep. James Roger Madalena
Rep. Greg Payne
Rep. Danice Picraux
Sen. Leonard Lee Rawson
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Henry Kiki Saavedra
Sen. Leonard Tsosie
Rep. Peter F. Wirth
Rep. Eric A. Youngberg

Work Plan

The water and natural resources committee proposes to focus on the following primary topics: legal and jurisdictional issues; water conservation; clean energy; and financing water needs. With respect to the legal issues, the committee anticipates the need for status reports on interstate compact compliance, endangered species, legal aspects of water management and regulatory control of water and environmental permitting.

The legislature has considered many measures to enhance the state's water conserving capacity, including tax incentives, water planning, improving water use efficiencies and urban planning. The committee proposes to revisit these and other water conservation measures.

Finally, the need for permanent funding sources to meet the state's water needs will reappear in the 2006 session as well.

APPROVED MEETING SCHEDULE

<u>Date</u>	<u>Location</u>
June 10	Santa Fe
June 30-July 1	Santa Rosa
August 4-5	Los Alamos
September 1-2	Albuquerque
September 28-29	Las Cruces
November 3-4	Santa

TENTATIVE AGENDA
for the
WATER AND NATURAL RESOURCES COMMITTEE
June 10, 2005
Room 307, State Capitol

Friday, June 10

10:00 a.m.	Call to Order —Senator Carlos R. Cisneros, Chair
	Office of the State Engineer — Status Report —John D'Antonio, State Engineer
11:00 a.m.	Interstate Stream Commission — Status Report —Estevan Lopez, Director, Interstate Stream Commission
12:00 noon	2005 Committee Work Plan
12:30 p.m.	Adjourn

Revised: June 21, 2005

**TENTATIVE AGENDA
for the
WATER AND NATURAL RESOURCES COMMITTEE**

**June 30-July 1, 2005
Santa Rosa High School Auditorium
717 S. 3rd Street
Santa Rosa, NM**

Thursday, June 30

10:00 a.m.	Call to Order —Senator Carlos R. Cisneros, Chair
	New Mexico Water History —Representative Joe M Stell
12:00 noon	Lunch
1:30 p.m.	Water Innovation Projects — Status —James Jimenez, Secretary of Finance and Administration —Robert Apodaca, Department of Finance and Administration
2:30 p.m.	Water Conservation Program — Status —John D'Antonio, State Engineer
3:30 p.m.	Wind Energy Development —Price Hatcher, Manager, Renewable Energy, SPS/Excel Energy, Inc.
4:30 p.m.	Recess

Friday, July 1

9:00 a.m.	Ute Reservoir Project — Status Report —Scott Verhines, Eastern New Mexico Rural Water Association
10:00 a.m.	Clean Energy Initiatives —Craig O'Hare, Energy, Minerals and Natural Resources Department
11:00 a.m.	Solar Energy Development —Joel Goldblatt, Spire Corporation
12:00 noon	Adjourn

Revised: August 1, 2005

**TENTATIVE AGENDA
for the
WATER AND NATURAL RESOURCES COMMITTEE**

**August 4-5, 2005
Oppenheimer Study Center
Los Alamos National Laboratory**

Thursday, August 4

- 10:00 a.m. **Call to Order**
—Senator Carlos R. Cisneros, Chair
- Welcome**
—Mike Wheeler, Vice Chair, Los Alamos County Council
—Dr. Terry Wallace, Associate Director for Strategic Research, Los
 Alamos National Laboratory (LANL)
- 10:15 a.m. **Water Science and Technology at LANL**
—Dr. Cathy Wilson, Water Portfolio Manager, LANL
- 11:00 a.m. **Prediction, Detection and Treatment of Water Supply Threats**
—Dr. Babetta Marrone, Molecular Microbiology and Immunology
 Group, LANL
- 12:00 noon **Working Lunch**
- Wildfire Modeling and Demonstration**
—Dr. Rod Linn, Acting Deputy Group Leader, Atmospheric, Climate
 and Environmental Dynamics Group, LANL
- 1:30 p.m. **Jemez Mountains Water Agreement**
—Marilyn C. O'Leary, Director, the Utton Transboundary Resources
 Center, University of New Mexico School of Law
—John D'Antonio, State Engineer
—Peter M. Pino, Pueblo of Zia Tribal Administrator
—Paul S. Chinana, Pueblo of Jemez Council Member
—Gilbert M. Sandoval, Non-Indian Water User
—Michael R. Garcia, San Ysidro Ditch Association
- 3:30 p.m. **Aamodt Water Rights Settlement**
—D. L. Sanders, Chief Counsel, Office of the State Engineer
- 5:30 p.m. **Recess**

Friday, August 5

- 9:00 a.m. **Water Augmentation Through Cloud Seeding**
—Sig Silber, New Mexico Weather Modification Association
—Roy Stoesz, New Mexico Weather Modification Association
- 10:00 a.m. **Water Research Technical Assistance Office**
—Charles Nylander, Program Manager, Water Research Technical
 Assistance Office, Environmental Stewardship Division,
LANL
- 11:00 a.m. **Predictive Tools for New Mexico Aquifer Management**
—Dr. Elizabeth Keating, Hydrology, Geochemistry and Geology
 Group, LANL
- 12:00 noon **Working Lunch and Tour of Los Alamos Watershed and Forest
Recovery**
—Bill Heimbach, LANL
—Lorrie Bonds, LANL
—Kevin Buckley, LANL
—Greg Kuyumjian, LANL
—Craig Martin, LANL
- 2:30 p.m. **Adjourn**

Revised: August 19, 2005

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE**

**September 1-2, 2005
Workforce Training Center, TVI
Alameda and I-25
Albuquerque**

Thursday, September 1

10:00 a.m. **Call to Order**
—Senator Carlos R. Cisneros, Chair

Albuquerque-Bernalillo County Water Utility Authority Status Report
 —Mark Sanchez, Executive Director, Albuquerque-Bernalillo County
 Water Utility Authority

11:30 a.m. **Lunch**

1:00 p.m. **Water Use Budgeting and Accounting**
—Matt Holmes, New Mexico Rural Water Association

2:00 p.m. **Water System Asset Management**
—Heather Himmelberger, EFC

3:00 p.m. **Water System Financial Planning**
—Blanca Surgeon, RCAC

4:00 p.m. **Water Rates and Affordability**
—Professor Janie Chermack, Economics Department, University of
New Mexico

5:00 p.m. **Recess**

Friday, September 2

9:00 a.m. **Conservation Funding and Other Environmental Legislative Initiatives**
—Edward Archuleta, Animal Protection of New Mexico
—Earl James, New Mexico Environmental Law Center

- 10:30 a.m. **Public/Private Water System Financing Partnerships**
—Maurice Hobson
- 11:30 a.m. **Desalination Prospects**
—Linda Weiss, State Director, United States Geological Survey
- 12:30 p.m. **Adjourn**

Revised: September 14, 2005

**TENTATIVE AGENDA
for the
WATER AND NATURAL RESOURCES COMMITTEE**

**September 28-29, 2005
Golf Course Clubhouse Conference Room
New Mexico State University
Las Cruces**

Wednesday, September 28

- 10:00 a.m. **Call to Order**
—Senator Carlos R. Cisneros, Chair
- Welcome to Las Cruces and to New Mexico State
University (NMSU)**
—William M. Mattiace, Mayor, Las Cruces
—Dr. William Flores, Provost, NMSU
- 10:15 a.m. **Water Planning Using Geographic Information**
—Janet Jarratt, Middle Rio Grande Water Assembly
—Karl Benedict, Earth Data Analysis Center
- 11:30 a.m. **Dona Ana County Farm and Livestock Bureau (DACFLB)**
—Craig Tharp, President, DACFLB
—Phillip Arnold, State Second Vice President, New Mexico Farm and
Livestock Bureau (NMFLB)
- 12:00 noon **Lunch**
- 1:30 p.m. **State Primacy for the National Pollution Discharge Elimination System
(NPDES)**
—Randy Traynor, New Mexico Home Builders Association
—Sharon Lombardi, Dairy Producers of New Mexico
—Ron Curry, Secretary of Environment
- 3:00 p.m. **Active Water Resource Management Effects in the Lower Rio Grande
Basin**
—Gary Esslinger, Elephant Butte Irrigation District
—Steve Hernandez, Attorney
- 4:30 p.m. **Recess**

Thursday, September 29

- 9:00 a.m. **New Mexico State University's Role in Addressing Water Issues**
—Michael Martin, President, NMSU
- 10:00 a.m. **Las Cruces' Water Issues Status Report**
—Terence Moore, City Manager
—Jorge Garcia, Utilities Director
- 11:00 a.m. **New Mexico Farm and Livestock Bureau Issues**
—John Wortman, Executive Director, NMFLB
- 12:00 noon **Pink Bollworm Control**
—Robert Sloan, South Central Pink Bollworm Control District
- 12:30 p.m. **Adjourn**

Revised: October 31, 2005

**TENTATIVE AGENDA
for the
WATER AND NATURAL RESOURCES COMMITTEE**

**November 3-4, 2005
Room 307, State Capitol
Santa Fe**

Thursday, November 3

10:00 a.m.

Call to Order

—Senator Carlos R. Cisneros, Chair

Interstate Stream Commission and State Engineer Briefing

—Estevan Lopez, Director, Interstate Stream Commission

—John D'Antonio, State Engineer

12:00 noon

Lunch

1:30 p.m.

**Water System Planning, Performance and Conservation —
Response to HJM 86**

—John D'Antonio, State Engineer

3:00 p.m.

Water System Governance and Funding

—Susan Kelly, Associate Director, Utton Center, UNM

—Judy Flynn-O'Brien, Interim Director, Institute for Public Law,
UNM

4:00 p.m.

Santa Fe Regional Water Plan

—TBA

5:00 p.m.

**Department of Environment — Cooperative Extension Service
Collaborative — Response to HJM 66**

—Ron Curry, Secretary of Environment

—Paul H. Gutierrez, Cooperative Extension Service

5:30 p.m.

Recess

Friday, November 4

9:00 a.m.

Legislative Requests

—Small Agricultural Production

—Produced Water

—Sanitary Projects Act

—Boating Safety

—Surface Owners Protection Act

—Cabresto Lake Stabilization and Improvement

- State Engineer's Administrative Hearings Process
- El Valle de Los Ranchos Water and Sanitation District
- Cloud Seeding Project
- Water Trust Fund—Appropriations
- Water Adjudication Expenses—Appropriation
- Water Masters—Appropriation

12:00 noon

Lunch

1:30 p.m.

Acequia Issues

- Paula Garcia, Director, NM Acequia Association

2:30 p.m.

State Mine Inspection

- Rebecca Boam, Director, Bureau of Mine Safety

3:30 p.m.

Sandia Water Assistance Projects

- TBA

4:30 p.m.

Adjourn

**MINUTES
of the
FIRST MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE
June 10, 2005
Santa Fe**

The first meeting of the Water and Natural Resources Committee was called to order at 10:10 a.m. on Friday, June 10, 2005, by Senator Carlos R. Cisneros, chair.

PRESENT

Sen. Carlos R. Cisneros, Chair
Rep. Joe M Stell, Vice Chair
Sen. Sue Wilson Beffort
Rep. Ray Begaye
Sen. Dede Feldman
Rep. Dona G. Irwin
Rep. Kathy A. McCoy
Sen. Steven P. Neville
Rep. Andy Nunez
Sen. Mary Kay Papen
Sen. H. Diane Snyder
Rep. Mimi Stewart
Rep. Sandra L. Townsend
Rep. Don L. Tripp

Advisory Members

Sen. Rod Adair
Sen. Vernon D. Asbill
Rep. Anna M. Crook
Rep. Candy Spence Ezzell
Rep. Rhonda S. King
Rep. James Roger Madalena
Rep. Greg Payne
Rep. Danice Picraux
Sen. Nancy Rodriguez
Sen. John C. Ryan
Sen. Leonard Tsosie
Rep. Peter Wirth

ABSENT

Rep. Joseph Cervantes
Sen. Mary Jane M. Garcia
Rep. Larry A. Larranaga
Sen. Cynthia Nava

Rep. Richard P. Cheney
Sen. Clinton D. Harden, Jr.
Sen. Timothy Z. Jennings
Sen. Gay G. Kernan
Rep. Ben Lujan
Sen. Leonard Lee Rawson
Rep. Henry Kiki Saavedra
Rep. Eric A. Youngberg

Staff

Gordon Meeks
Jon Boller
Evan Blackstone
Liz Holmes

Guests

The guest list is in the original meeting file.

Friday, June 10

Senator Cisneros welcomed members, staff and guests and asked members of the committee to introduce themselves. He presented the schedule of meetings for the interim and suggested that the 2005 work plan reflect last year's approved work plan. There was no objection.

CURRENT WATER SUPPLY AND STATUS REPORT

John D'Antonio, state engineer, introduced his staff accompanying him and Jim Dunlap, chair of the Interstate Stream Commission (ISC), and Estevan Lopez, director of the ISC. Mr. D'Antonio said that the state is in much better condition this year compared to last year due to winter and spring precipitation, but warned that residents cannot become complacent. He demonstrated with historic charts that previous droughts during the twentieth century had years in which significant precipitation fell in the midst of long-term dry conditions. He showed photographs of flooding conditions, aggravated by sedimentation, and efforts to repair and improve dams and levees. He said the pilot channel worked as far as improving delivery to the Elephant Butte Reservoir for compliance with the Rio Grande Compact obligations.

He said that in recognition of the need to remain vigilant about the drought, the Office of the State Engineer is proceeding in implementation of active water management strategies, including installation of meters, preparation of water master manuals and hiring of water masters, and the creation of new water management districts in basins under prior administration. He summarized the status of administration in those basins and presented a schedule of public hearings to be held on proposed supplemental rules and basin-specific rules and regulations.

He told the committee that the Navajo water rights settlement was signed on April 19. Federal legislation to implement that agreement will be introduced to Congress in the fall, and he thanked the committee for its support of Senate Bill 172, which was enacted during the 2005 session to help implement the state's component of the settlement. Money has not yet been appropriated, but the state now has established an Indian Water Rights Settlement Fund as a mechanism to implement settlement provisions. He said that \$855 million will be sought from the federal government and a \$35 million match will be

sought from the state over the period of constructing the projects for implementing the terms of the settlement.

He summarized the recently mediated *Aamodt* case covering the water rights in the Pojoaque Valley. Among the terms of that settlement are agreements that the pueblos will draw water from the Rio Grande before drilling any new wells, and an impact fund for any adverse effects on non-Indians will be established. The pueblos also agreed that they will not exercise a priority call on non-Indian water users, existing wells will not be required to be capped and there will be no mandatory connections to the regional water system to be built.

Mr. Jim Dunlap, said that the Water and Natural Resources Committee is one of the most important committees of the legislature. He named the other members of the ISC and the areas of the state they represent and said the commission is a politically independent deliberative body that takes its responsibilities very seriously, never automatically rubber-stamping anything. He said one of the commission's priorities is to begin implementation of the recently completed state water plan.

He summarized the commission's current work agenda, including determination of how 14,000 acre-feet of water will be put to use pursuant to a congressional allocation of that amount and its approval of the Gila River settlement with Arizona. Another task is the completion of the Elephant Butte pilot project to save 15,000 to 30,000 acre-feet of water by bypassing the Rio Grande with water obligated to downstream users under the compact. Endangered species recovery is another priority of the commission. The Endangered Species Act affects every basin, and the state needs to ensure that actions taken to protect endangered species are based on sound science. He said the next species of concern is the Arkansas shiner on the Cimarron River.

He said the commission looks forward to being able to use the strategic water reserve established during the last session and is moving forward with implementation of the Pecos River settlement after the courts recently upheld the law in a lawsuit by challengers.

He closed by saying the commission will not bring proposals to the legislature without fully understanding their implications.

Mr. Lopez said he is proud to be working with the members of the ISC. He told the committee that in the Pecos River settlement, 9,584 acres of purchase agreement were negotiated, 5,003 acres had contracts executed and 1,402 acres had water rights retired and title assumed by the state. He showed a chart to illustrate the historic departures from cumulative delivery obligations under the Pecos River Compact. He said New Mexico is in good condition for the first time in several years as a result of the spring runoff and these water rights retirements. The state is anticipating a 17,000 acre-foot

cumulative credit by the end of this year.

He said that the lower Rio Grande is now looking to be in good shape after the Elephant Butte temporary channel carried as much as 4,000 cubic feet per second of water this spring. It was designed for 2,500. This flow rate will now allow more storage in the upper basin reservoirs pursuant to the Rio Grande Compact.

He told the committee that, relative to the Endangered Species Act, the silvery minnow population has increased and that the southwest flycatcher habitat has been proposed by the Federal Fish and Wildlife Service. He outlined actions being pursued by the commission to assume the state's obligations under recovery plans, including river monitoring, rescuing fish and construction of refugia.

He said that the federal government has committed \$66 million to implement the Gila River settlement and affirm New Mexico's right to 14,000 acre-feet of water, which was documented in the southwest regional water plan. The deadline for a consensus on how to use that money and water is 2014.

He closed by saying the state water plan will serve as the ISC's and the Office of the State Engineer's strategic plan for performance budgeting purposes.

Questions and discussion by the committee addressed:

- Sumner Lake sediment and the reservoir's capacity;
- declaration of the Milnesand area ground water basin;
- consensus of the *Aamodt* settlement agreement;
- dam safety around the state;
- qualifications of water masters;
- Gila River settlement parameters;
- water use entitlement in lieu of metering and measurement;
- quantification of legal rights;
- forfeiture or abandonment provisions;
- the source of revenues for water masters;
- accuracy of projected reservoir levels;
- the need for public service announcements on dam safety in Navajo;
- potential water imports into the Pojoaque Valley under the proposed *Aamodt* settlement;
- updating of the water supply information;
- the effect of the Navajo water rights settlement on individual Navajo water rights holders (Navajo allottees);
- the need for legislative concurrence with Indian water rights settlements;
- representation of Native Americans in ISC meetings and incorporation of Native American interests in state water plans;
- the kind of land purchased in the Pecos Valley for water rights retirements;

- the film on the Pueblo of Jemez water rights adjudication for presentation to the committee at a future meeting;
- the need for a status report at a future meeting on the drought task force recommendations on water conservation and the use of a \$400,000 appropriation for conservation;
- the status of dredging of the Elephant Butte pilot channel;
- the deadline for putting to use the federal money for the Gila River settlement;
- the condition and management of the Pecos River agricultural land retired under the settlement;
- the estimated cost of the *Aamodt* settlement; and
- the decision to include urban growth as a topic under the work plan.

WORK PLAN

The committee amended and then approved last year's work plan to be followed as this year's proposed work plan:

"The Water and Natural Resources Committee proposes to focus on three primary topics: legal issues; water conservation; and financing water needs. With respect to the legal issues, the committee anticipates the need for status reports on interstate compact compliance, endangered species and other legal aspects of water management.

The legislature has considered many measures to enhance the state's water conserving capacity, including tax incentives, water planning, improving water use efficiencies and urban planning. The committee proposes to revisit these and other water conservation measures.

Finally, the need for permanent funding sources to meet the state's water needs will reappear in the 2006 session as well."

The committee selected the following meeting dates and locations:

June 30-July 1	Santa Rosa
August 4-5	Los Alamos
September 1-2	Albuquerque
September 28-29	Las Cruces/Truth or Consequences
November 3-4	Santa Fe

The committee adjourned at 12:35 p.m.

**MINUTES
of the
SECOND MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE**

**June 30-July 1, 2005
Santa Rosa High School
Santa Rosa**

The second meeting of the Water and Natural Resources Committee was called to order at 10:10 a.m. on Thursday, June 30, 2005, by Representative Joe M Stell, vice chair.

Present

Sen. Carlos R. Cisneros, Chair (July 1)
Rep. Joe M Stell, Vice Chair
Sen. Sue Wilson Beffort
Rep. Ray Begaye
Rep. Joseph Cervantes
Sen. Dede Feldman (July 1)
Sen. Mary Jane M. Garcia
Rep. Dona G. Irwin
Rep. Larry A. Larrañaga
Sen. H. Diane Snyder
Rep. Mimi Stewart
Rep. Sandra L. Townsend
Rep. Don L. Tripp

Advisory Members

Sen. Rod Adair (July 1)
Sen. Vernon D. Asbill (July 1)
Rep. Anna M. Crook
Rep. Candy Spence Ezzell
Rep. Rhonda S. King (June 30)
Rep. James Roger Madalena (July 1)
Sen. Nancy Rodriguez
Sen. John C. Ryan
Sen. Leonard Tsosie
Rep. Peter Wirth

Absent

Rep. Kathy A. McCoy
Sen. Cynthia Nava
Sen. Steven P. Neville
Rep. Andy Nunez
Sen. Mary Kay Papen

Rep. Richard P. Cheney
Sen. Clinton D. Harden, Jr.
Sen. Timothy Z. Jennings
Sen. Gay G. Kernan
Rep. Ben Lujan
Rep. Greg Payne
Rep. Danice Picraux
Sen. Leonard Lee Rawson
Rep. Henry Kiki Saavedra
Rep. Eric A. Youngberg

Attendance dates are noted for those members not present for the entire meeting.

Staff

Gordon Meeks

Evan Blackstone
Jeret Fleetwood

Guests

The guest list is in the meeting file.

Thursday, June 30

Representative Jose Campos, mayor of Santa Rosa, welcomed the committee to Santa Rosa and provided the committee with a brief history of the city. He also emphasized the importance of water to communities like Santa Rosa that depend heavily on tourism.

New Mexico Water History

Representative Joe Stell provided the committee with an overview of water rights in New Mexico. First, he explained how customs dating back to Moorish rule of Spain, particularly the notion of "first in time, first in right" brought to the new world by Spanish conquistadors, first began to impact New Mexico's water rights today. He noted that the "first in time" concept basically stipulates that the first person to lay claim to something, or to utilize it, is more entitled to it than subsequent claimants and that this concept forms the basis of the doctrine of prior appropriation that governs water rights in New Mexico.

Then, Representative Stell discussed the Treaty of Guadalupe Hidalgo and its effect on New Mexico's water. He explained that the treaty stated that the United States, in annexing present-day New Mexico, Arizona and Texas, would honor the culture and customs already in place in those lands and that the doctrine of prior appropriation was one of those customs.

Next, Representative Stell outlined how, in the late 1800s, a number of Texans fleeing prosecution came to settle in New Mexico. He noted that many of those settlers brought cattle with them and settled near springs. Later, under the Homestead Act, those settlers were granted the title to the lands they had settled, which led to private ownership of large amounts of New Mexico's water resources.

After discussing the evolution of water rights in New Mexico, Representative Stell went into some detail about the various water agreements involving the state. He began with the Pecos River Compact, then went on to discuss the Rio Grande Compact; the Colorado River Compact; the San Juan/Chama project; the Gila River Compact and the central Arizona water rights settlement; water rights on the Canadian River; and a water project designed to deliver water from the San Juan/Chama project to the city of Gallup.

There are two significant lawsuits between Texas and New Mexico regarding water. He explained that the United States Supreme Court decreed that New Mexico could pay Texas a substantially smaller sum of money than Texas desired for New

Mexico's under-delivery of water on the Pecos River, but that New Mexico could never again pay for under-delivery with money again. Instead, under-deliveries must be made up with actual water. Representative Stell explained that another lawsuit between New Mexico and the City of El Paso highlighted some of the different rules the two states have regarding the pumping and diversion of underground water. While El Paso wanted to use some of New Mexico's water, a judge ruled that the city had not exhausted all of the means available to it in seeking water. However, he also ruled that water is a commodity that can be transported across state lines like any other commodity. This led El Paso to build a pipeline to transport water from farmland east of the city into El Paso itself. Representative Stell remarked that the ability to pump water across state lines is important because it would allow a community such as Alamogordo to import water via a pipeline rather than continue to try to convert brackish water into potable water.

Finally, Representative Stell discussed New Mexico's water future and ways to finance water projects. He explained that the state has enough water to secure its water situation, but that it faces two problems: growth and drought. Representative Stell went on to note that the state simply does not have the resources to be able to play godfather to each New Mexico community seeking help with a water project. Instead, he said that citizens will have to roll their sleeves up. He also suggested that one solution would be the formation of water authorities that have the authority to tax users. Representative Stell noted that another solution would be public/private partnerships that would allow private companies to sell water for a reasonable profit in return for infrastructure financing.

Questions and comments addressed:

- money and politics as obstacles to solutions;
- the Last Chance Water Company and the Salt Basin water reserves;
- Alamogordo's options;
- the need to avoid additional lawsuits;
- terms of the Pecos River water rights settlement;
- Canadian River Compact terms;
- costs of litigation with Texas;
- definition of beneficial use;
- status of water rights adjudication in Dona Ana County;
- use of eminent domain for water rights acquisition;
- history of domestic wells;
- why most of the water is being used by the Rio Grande corridor;
- future of the doctrine of prior appropriation; and
- using the CALFED model for prioritizing water projects.

Water Innovation Projects—Status

James Jimenez, secretary of finance and administration, and Robert Apodaca, also of the Department of Finance and Administration (DFA), provided the committee with an update on some of the water-project-financing mechanisms in place. Mr. Jimenez noted

that Governor Richardson and the Governor's Finance Council have identified water as one of their top priorities. He also noted that water projects received a large percentage of the \$470 million in capital outlay approved during the 2005 legislative session. Mr. Jimenez then discussed the results of the first phase of the Water Innovation Fund, which began with a \$10 million appropriation from the 2004 legislature. He explained that out of 115 proposals, 25 projects were chosen and that those 25 projects were then divided into 4 categories: water-recycling projects, water-producing projects, water-conservation projects and communities in crisis. Mr. Jimenez provided examples of projects in each category and noted that estimates of the total amount of water conserved, recycled or produced by the 25 projects chosen was approximately 32 billion gallons per year.

Mr. Jimenez then discussed Phase 2 of the Water Innovation Fund, which he explained will function similarly to Phase 1. He went on to note that an RFP was issued on June 10, 2005 and that July 11, 2005 is the proposal deadline. Mr. Jimenez also provided the committee with a list of the entities responsible for choosing the proposals, which includes representatives of the Office of the State Engineer, the DFA and the Governor's Office.

Finally, Mr. Jimenez discussed the formation and goals of the Water Infrastructure Technical Team and the Water Infrastructure Investment Team. He also noted the development of a Uniform Funding Application that he said would help entities seeking funding for water and wastewater projects by providing one application for funding that would be forwarded to the DFA, the New Mexico Finance Authority, the New Mexico Department of Environment and the USDA/RUS.

Mr. Apodaca echoed Mr. Jimenez's comments and also noted that the DFA was trying to do a better job of working with federal entities and helping communities secure federal funding for their water and wastewater projects.

Questions and comments included:

- responses to Phase 2 of the Water Innovation Fund RFP;
- the process and criteria of selecting fund recipients;
- better ways for legislators to communicate with the executive branch;
- advantages of changes to the capital outlay application process;
- the use of nonrecurring surplus general fund money for projects versus placing funds in the Water Trust Fund endowment;
- the governor's position on requirements for local financing commitments;
- dedication of revenue surplus to the Water Trust Fund;
- monitoring of projects;
- the use of federal funds to help defray the large costs of many New Mexico water projects, such as the Ute Reservoir project;
- consumer financing for water projects;
- the geographic location of Water Innovation Fund Phase 1 projects;
- methods for gauging the success of Water Innovation Fund Phase 1 projects;

- prioritizing water projects throughout the state to avoid dumping relatively small amounts of money into a variety of projects instead of funding one or two large projects at a time;
- the innovativeness of the projects;
- the continuing need for water hauling;
- specific savings per project;
- a list of projects denied funding;
- evaluation of committee membership;
- how stakeholders can influence the selection process;
- leveraging financing;
- allocation among legislative districts;
- recycling technologies; and
- development of leak detection technology in Water Innovation Fund Phase 1 projects.

Water Conservation Program

John Longworth, Office of the State Engineer (OSE), provided the committee with an overview of the OSE's Water Use and Conservation Bureau. He explained that the Water Use and Conservation Bureau reviews proposed subdivisions to determine whether the developer can provide adequate water to the subdivision. Next, Mr. Longworth discussed water-use trends in New Mexico. He noted that, in 2000, irrigated agriculture accounted for 76 percent of the total water withdrawals for the state. Mr. Longworth also pointed out that while agricultural use of water has slowly but steadily declined over the past 20 years, municipal and industrial use has been just as steadily increasing. He explained that these trends can be expected to continue as New Mexico's population continues to grow, particularly in the Rio Grande Basin.

Finally, Mr. Longworth provided the committee with a packet of materials available through the OSE regarding water conservation. He explained that some of those materials, such as how to effectively water trees, are the kind of public outreach and education that the OSE's water conservation program tries to distribute throughout the state. Mr. Longworth emphasized that public outreach and education about water use and conservation will likely play a large role in ensuring that New Mexico's water resources are adequate to allow for continued population growth.

Questions and comments included:

- tax rebates for water conservation in Albuquerque;
- average per capita water use by city and reasons for large disparities between seemingly similar desert cities;
- use of low-flow plumbing as a means of water conservation; and
- watering trees.

Wind Energy Development

Price Hatcher and Sonia Phillips, both of Excel Energy, provided the committee

with an update on Excel Energy's wind energy projects. They explained that the rules regulating energy production companies in New Mexico call for 10 percent of the energy that the company produces to come from renewable energy sources. Mr. Hatcher pointed out that while there are several different renewable energy sources, such as solar, biomass and hydroelectric, New Mexico is particularly well-suited to using wind as a renewable energy source, which is why Excel has focused most of its renewable energy portfolio on it. He went on to discuss the location and output of the company's wind energy units. Mr. Hatcher also noted that Excel Energy also produces 93 megawatts of energy from biomass and he outlined the company's solar energy initiatives. Finally, he discussed what makes renewable energy resources attractive to both power companies and their customers, as well as some of the hurdles that he believes need to be overcome in order to expand energy production from renewable resources.

Questions and comments included:

- federal incentives and comparison of New Mexico's incentives for renewable energy production with other states' incentives (the best);
- dairy waste biomass energy production;
- net metering;
- additional surcharges for customers wishing to pay for wind energy production;
- whether customers who do not pay additional surcharges are getting their energy from wind energy anyway;
- the Public Regulation Commission's interpretation of legislative intent mandating use of renewable energy resources;
- the need for improved transmission capacity for alternative energy;
- other states' financing capacity for alternative energy;
- state agencies' purchase of renewable energy;
- backup for renewable energy to serve the "load";
- quality of renewable energy compared to conventional energy generation;
- comparison of costs of various alternatives;
- the cost of operating the Amarillo power plant; and
- federal rebates and credits.

The committee recessed at 5:15 p.m.

Friday, July 1

Ute Reservoir Project— Status Report

Scott Verhines, Eastern New Mexico Rural Water Association (ENMRWA), and David Lansford, mayor of Clovis, provided the committee with an overview of the ENMRWA system. They explained that the project, when completed, would provide water to 75,000 people residing in nine communities in three counties. Mr. Verhines indicated that the project would cost approximately \$296 million, 80 percent of which,

hopefully, would come from the federal government and the remaining 20 percent would be split between the state and the affected local governments. He also discussed some of the challenges facing the project, such as equitably distributing financing for the project among its users and balancing commercial, environmental and recreational interests at Ute Reservoir where most of the water for the project would be stored. Mr. Verhines went on to point out that hydrological conditions in eastern New Mexico are such that the aquifer from which the water users pump their water will likely run out in 20 to 25 years and it will take 10 years to complete the Ute Reservoir project, which, he said, underscores the need to get the project finished.

Finally, Mr. Verhines discussed the current status of the project. He explained that money appropriated by the legislature in 2002 went toward a design and consulting team that is currently working on the project. Mr. Verhines identified the federal Bureau of Reclamation as the project's federal collaborator. He also discussed some of the membership changes in the project, indicating that several entities had dropped out and decided to address water issues through other means. Finally, Mr. Verhines discussed a potential challenge for the project with designation of an area south of the reservoir as critical habitat for the Arkansas River shiner.

Questions and comments included:

- the project's planned 18,400 acre-feet and the ability of the project to meet future demands;
- the Water Trust Board application process;
- sources of and prospects for federal money for the project;
- the reasons for communities dropping out of the project and variation of needs among the eastern communities;
- CH2MHill design engineers and lobbyists on the project;
- cost/benefit analyses of large water projects;
- regionalization of community water projects;
- alternative aquifer sources;
- interstate efforts to conserve the Ogallala aquifer;
- effectiveness of the Water Trust Board; and
- the potential advantages of a legislative authorization process similar to the federal process.

On a motion made, seconded and unanimously approved, the minutes of the June 10, 2005 meeting were approved as submitted.

Clean Energy Initiatives

Craig O'Hare, Energy, Minerals and Natural Resources Department, provided the committee with an overview of clean energy initiatives being pursued throughout New Mexico. He began by defining clean energy as belonging to one of three categories: renewable energy, energy efficiency and clean fuels. Mr. O'Hare explained that renewable energy involves the use of solar power, wind energy and burning biomass and

described examples of projects utilizing each of these in New Mexico. He also indicated that New Mexico ranks second in the nation with regard to solar resources. Mr. O'Hare went on to discuss energy efficiency, which he explained involves constructing energy efficient buildings or manufacturing more efficient appliances and vehicles. He pointed out that while constructing buildings that are more energy efficient does increase construction costs, those costs are typically defrayed within four or five years by significantly reduced energy utility costs. Mr. O'Hare then discussed the use of clean fuels such as ethanol, biodiesel, compressed natural gas and hydrogen. He noted that most of these fuels can be produced domestically, which would help reduce reliance on imported oil.

Mr. O'Hare went on to discuss the benefits of pursuing clean energy initiatives in New Mexico both in terms of economic development and in addressing the need to diversify the energy economy rather than continue to depend on a finite amount of fossil fuels. He also reviewed legislation introduced during the 2005 legislative session concerning clean energy and outlined proposals that will likely be brought before the legislature in 2006, such as amending the Public Regulation Commission's "net metering" rule through statute.

Questions and comments included:

- percent of power companies' portfolios dedicated to renewable energy;
- New Mexico declining to join Western States Power Group;
- number of solar homes in New Mexico and the difference between incentives for use of solar and wind energy due to differences in costs and economics related to each one;
- state vehicles using clean fuels;
- octane rating of biodiesel and ethanol;
- clean energy funding for tribes and Indian jurisdictions;
- weatherization of homes; and
- green building standards for state buildings and public schools.

Solar Energy Development

Joel Goldblatt, of the Spire Corporation, provided the committee with an overview of solar energy production in New Mexico. He explained that the Spire Corporation manufactures solar panels and showed the committee how those panels can be used to power a building. He also pointed out that some configurations allow solar panel owners to feed power back into the grid and receive usage credits on their accounts. Mr. Goldblatt also discussed the roots of the Spire Corporation and provided the

committee with an overview of one of the company's solar panel manufacturing projects in Chicago, Illinois. He went on to indicate that the company has plans to build a manufacturing plant in Questa, New Mexico, and noted some of the economic development benefits of such a plant. He noted, however, that construction of the plant had yet to begin.

Questions and discussion addressed:

- the number of solar panels needed to fuel the average home; and
- the cost of installation of solar panels on residences.

There being no further business, the committee adjourned at 12:05 p.m.

**MINUTES
of the
THIRD MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE**

**August 4-5, 2005
Oppenheimer Study Center, Los Alamos National Laboratory
Los Alamos**

The third meeting of the Water and Natural Resources Committee was called to order at 10:10 a.m. on Thursday, August 4, 2005, by Senator Carlos R. Cisneros, chair.

PRESENT

Sen. Carlos R. Cisneros, Chair (August 4)
Rep. Joe M Stell, Vice Chair
Sen. Sue Wilson Beffort
Rep. Ray Begaye
Rep. Joseph Cervantes
Sen. Dede Feldman
Sen. Mary Jane M. Garcia
Rep. Larry A. Larrañaga (August 5)
Rep. Kathy A. McCoy
Sen. Steven P. Neville
Rep. Andy Nunez
Sen. Mary Kay Papen
Sen. H. Diane Snyder
Rep. Mimi Stewart
Rep. Sandra L. Townsend

Advisory Members

Sen. Vernon D. Asbill
Sen. Clinton D. Harden, Jr.
Sen. Gay G. Kernan (August 4)
Rep. James Roger Madalena
Rep. Danice Picraux
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Peter Wirth

ABSENT

Rep. Dona G. Irwin
Sen. Cynthia Nava
Rep. Don L. Tripp

Sen. Rod Adair
Rep. Richard P. Cheney
Rep. Anna Marie Crook
Rep. Candy Spence Ezzell
Sen. Timothy Z. Jennings
Rep. Rhonda S. King
Rep. Ben Lujan
Rep. Greg Payne
Sen. Leonard Lee Rawson
Rep. Henry Kiki Saavedra
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Gordon Meeks
Evan Blackstone
Jeret Fleetwood

Guests

Rep. Nick L. Salazar
Rep. Jeannette O. Wallace (August 4)

The guest list is in the original meeting file.

Thursday, August 4

Representative Jeannette O. Wallace, Mike Wheeler, vice chair of the Los Alamos County Council, and Dr. Kathy Alexander, deputy associate director for strategic research, welcomed the committee to Los Alamos and provided it with a brief background of some of the water projects in which Los Alamos National Laboratory (LANL) is involved.

On a motion made, seconded and unanimously passed, the committee approved the minutes of the June 30, 2005 meeting as submitted.

WATER SCIENCE AND TECHNOLOGY AT LANL

Dr. Cathy Wilson, water portfolio manager at LANL, provided the committee with an overview of water projects with which LANL is currently involved. She explained that the laboratory has made significant investments in water-related research and that four directorates, 11 divisions and three program offices at the lab are involved in such research. Dr. Wilson also discussed the LANL Institutional Water Strategy Team, a group of individuals from different areas of LANL who have come together to develop and apply the best science and technology solutions to urgent local, regional, national and global water problems. She also provided the committee with examples of water problems that the strategy team has addressed.

Questions and comments included:

- Project "Zeronet";
- water desalination technology;
- contamination of water from Cerro Grande fire ashes;
- cost-effectiveness of brackish water cleanup;
- drought severity predictions; and
- uses for produced water.

PREDICTION, DETECTION AND TREATMENT OF WATER SUPPLY THREATS

Dr. Babetta Marrone of the Molecular Microbiology and Immunology Group at LANL provided the committee with testimony regarding potential threats to water

supplies. She noted that while the connection between water health and hygiene is taken for granted in most of the United States, maintaining water quality in third world countries is literally a daily struggle. Dr. Marrone explained that water-ingested pathogens, such as those found in water polluted with fecal matter, account for roughly 6,000 deaths per day, and that water treatment can eliminate most pathogens. However, she also noted that there are three basic kinds of pathogens: viruses, protozoa and bacteria, and that treatment methods that may be effective for one kind of pathogen may not be as effective for another kind.

Dr. Marrone went on to discuss research conducted by LANL regarding threats to water resources. She highlighted a project involving the laboratory and New Mexico State University (NMSU) to design and construct water filters. Dr. Marrone also discussed efforts to better understand the effect of climate change on pathogens and water disease surveillance efforts.

Finally, Dr. Marrone discussed Southeast Asia's avian virus, commonly known as bird flu. She explained that the virus is of particular concern to the World Health Organization because of its ability to travel directly from poultry to humans, which is rare in viruses. She also noted that concerns exist about the virus because of how difficult it would be to contain if it finds its way into the United States poultry population. Dr. Marrone indicated that the virus is of particular concern to New Mexico because of its location along the migratory routes of a large number of bird species.

Questions and comments included:

- cooperation with NMSU;
- high-risk areas for water contamination and vulnerability analyses;
- treatment of arsenic;
- the ability to detect bioterrorism that targets water sources;
- solutions to water vulnerability;
- pueblos impacted by LANL runoff;
- carriers of poultry virus;
- over-development;
- human physiological diseases resulting from avian flu;
- public policies that can prevent avian flu;
- the number of annual deaths from water pathogens; and
- prospects for a vaccine for avian flu.

WILDFIRE MODELING AND DEMONSTRATION

Rod Linn, acting deputy group leader for the Atmospheric, Climate and Environmental Dynamics Group at LANL, provided the committee with a demonstration of the wildfire modeling program being developed at the laboratory. He explained that predicting wildfire behavior is a complex problem with many interrelated ties, such as the type of fuels, weather, topography and physics. Dr. Linn also noted that there are two basic types of wildfire modeling programs: an operational model and a much more

detailed program. He explained that the more detailed program is most useful for examining how and why a past fire behaved the way it did or to help predict what kind of forest management techniques will yield the best resistance to large fires, rather than to try to predict how a fire that is already burning will behave because of the time it takes for the computer model to render a prediction. However, Dr. Linn noted that the operational model employed by the forest service is relatively effective for determining fire behavior when time is a factor.

Finally, Dr. Linn showed the committee computer-generated models of several fires to show how complex variables can change the behavior of a fire.

RIO JEMEZ WATER AGREEMENT

Marilyn O'Leary, director of the Utton Transboundary Resources Center at the University of New Mexico School of Law, John D'Antonio, state engineer, Paul Chinana, Pueblo of Jemez Council member, and Gilbert Sandoval, a non-Indian water user, provided the committee with an overview of the Rio Jemez water agreement. The group explained how Indian and non-Indian water users along the Jemez River came to an agreement over water use through the Utton Transboundary Resources Center instead of through litigation. Ms. O'Leary explained that one of the primary functions of the Utton Center is to help broker these kinds of agreements so that the parties involved do not have to take each other to court. Mr. Chinana and Mr. Sandoval provided the committee with a brief history of the agreement, noting that the Indian pueblos, including Jemez, Santa Ana and San Ildefonso, have the most senior water rights in the area. However, they explained that in addition to the large number of non-Indian users upstream of the pueblos, the community of Rio Rancho has a rapidly increasing need for water downstream from the pueblos. Mr. Chinana and Mr. Sandoval explained that the pueblos agreed to share their water with the upstream users, rather than forcing them to give up water in a court battle.

Mr. D'Antonio praised the agreement, noting that situations such as the one on the Jemez River, where senior users threatened to use court proceedings to curb the water use of junior users, are much more common during a drought. He also indicated that while the Office of the State Engineer (OSE) is working on drought management, the best solution is for stakeholders to come together to work out some sort of compromise before moving ahead with enforcement of priority rights. He reiterated his commitment to support negotiated water sharing agreements rather than to undertake prior administration in times of water shortages.

Questions and comments included:

- water rights purchases and transfers;
- detailed history of the Rio Jemez conditions and steps toward the negotiated agreement;
- sacred elements of the negotiations;
- control of development to protect water users in a system from which water rights

- have been transferred;
- how only consumptive rights of surface water rights may be transferred to a new domestic user;
- the impacts of domestic wells;
- use of the Rio Jemez settlement as a model for other settlements;
- specifics of the agreement's implementation;
- the effect on the river flow due to Rio Rancho's wells;
- the need for the state to identify water capacity;
- the Pueblo of Zia's purchase of agricultural land to prevent well drilling after water rights have been severed from that land and transferred to other uses;
- Rio Rancho's effect on the flow of the Rio Jemez;
- use of the legal system to pressure disputants to settle;
- state funding for components of the settlement;
- the ombudsman established at the Utton Center;
- needs of municipalities;
- how Rio Rancho has no San Juan-Chama water;
- the price of water rights;
- the amount of water being conserved;
- industry's role in water rights negotiations and settlements;
- the potential to increase net water use or depletions as a result of a water rights transfer;
- the corresponding mediation center in Texas to the Utton Center;
- new math in the Estancia Basin;
- active water management; and
- water transportation networks and the cost of financing water infrastructure.

AAMODT WATER RIGHTS SETTLEMENT

D.L. Sanders, chief counsel for the OSE, provided the committee with an update on the *Aamodt* water rights settlement. He first provided the committee with a brief history of the *Aamodt* settlement, noting that it involves water rights settlements in the Pojoaque Basin. Mr. Sanders indicated that the terms of the settlement involve a regional water system featuring pipelines for water from other nearby areas. He noted that such water pipelines are indeed good water planning, but that they are quite expensive. Mr. Sanders went on to explain that the project would cost close to \$300 million, the bulk of which the federal government is supposed to fund. However, he also indicated that the federal government demonstrated a reluctance to fund the project in January and that nothing he has seen from the federal government since then gives him any reason to suspect that it will be any more willing to fund the project now. Mr. Sanders noted that several federal agencies now feel that they only need to fund large-scale water projects in the amount of the projects potential liability in court, which in the *Aamodt* case is significantly less than \$300 million.

Questions and comments included:

- New Mexico's share of the project cost;

- location of well fields for the project; and
- whether the project can possibly proceed without substantial federal funding.

The committee recessed at 5:30 p.m.

Friday, August 5

WATER AUGMENTATION THROUGH CLOUD SEEDING

Sig Silber of the New Mexico Weather Modification Association provided the committee with an overview of the association's proposed cloud seeding project. First, Mr. Silber explained that "supercooled" moisture exists in most clouds, but that updrafts are often a little too strong for the moisture to fall as precipitation. He went on to explain that cloud seeding consists of introducing a catalyst, often silver iodide, into the clouds to induce the supercooled moisture to fall to the ground as precipitation. Mr. Silber pointed out that the two main ways of introducing the catalyst into the clouds is either by ground-based burners using updrafts to carry the catalyst into the clouds or by aircraft dropping the catalyst into the clouds. He noted that both methods require a fair amount of precision, and that the proposed project would initially employ both methods to determine which provides the greater benefit. Mr. Silber then showed the committee the areas of the state the group plans to seed, noting that it plans to seed clouds during the winter to try to increase the snowpack in those areas. He also cited the success that cloud seeding projects have had in places such as Climax, Colorado, the Jemez Mountains, Tasmania and Israel. Finally, he assured the committee that employing cloud seeding technology only takes a very small amount of moisture out of the air, so it would likely not drastically change area weather patterns, and that while silver iodide is poisonous, such a small amount is used that traces of it cannot be found in the snow, water or soil of areas where cloud seeding projects have occurred.

Questions and comments included:

- success of previous cloud seeding projects in New Mexico;
- the use of ground-based generators in wintertime for snow augmentation;
- the Jemez Mountain Project from 1968 to 1972;
- scientific documentation of effectiveness;
- seeding in the Guadalupe and the Sacramento mountains;
- an explanation of the mechanics of cloud seeding;
- budget details;
- the use of propane for cloud seeding;
- costs of water rights compared to costs of cloud seeding;
- sources of funding of cloud seeding in Wyoming, Utah and Colorado (ski resorts) and California (hydroelectric power authorities);
- the state engineer's position;
- the absence of negative environmental impacts;
- the number of cloud seeding projects nationally (964);
- mother earth; and

- the anticipation of 15,000 additional acre-feet of water as a result of selective cloud seeding in New Mexico (enough to meet interstate compact delivery obligations).

WATER RESEARCH TECHNICAL ASSISTANCE OFFICE

Charles Nylander, program manager for the Water Research Technical Assistance Office (WRTAO) at LANL, told the committee that the WRTAO was established to provide technical assistance, research and education to local entities regarding water issues. Mr. Nylander outlined some of the work in areas that the WRTAO has provided assistance, including supporting the Espanola Regional Planning Issues Forum, the Governor's Blue Ribbon Water Task Force and outreach to pueblos and tribes. He also showed the committee a segment of a video, which is a part of a larger series of videos, produced by the WRTAO. Finally, Mr. Nylander noted that the WRTAO has been offering testing services to local well owners to help them better understand the quality of their well water.

Questions and comments included:

- legacy waste effects on Mortendad Canyon;
- the New Mexico Department of Environment's consent order for LANL cleanup;
- field work by LANL on environmental monitoring; and
- technology for water quality analysis.

PREDICTIVE TOOLS FOR NEW MEXICO AQUIFER MANAGEMENT

Elizabeth Keating of the Hydrology, Geochemistry and Geology Group at LANL provided the committee with an overview of the research she has done on aquifer modeling. She explained how computer models of aquifers can be used to help manage water resources by helping stakeholders understand the effects of several different factors on aquifer size and quality. For example, Dr. Keating showed the committee a model of the Espanola Basin to show how surface and ground water are interrelated and how water supplies in Los Alamos are related to the Espanola Basin. She also noted that research has shown that ground water in the basin is contaminated with naturally occurring uranium, fluoride and arsenic, and that the contamination may be growing worse as a result of ground water production.

Questions and comments included:

- runoff compared to percolation into ground water;
- reliability of ground water data given the variability of recharge conditions based on varying vegetative cover throughout New Mexico; and
- damage to aquifers from disposal of mine tailings and surface waste.

TOUR OF LOS ALAMOS WATERSHED AND FOREST RECOVERY

The committee toured several areas of the Los Alamos Watershed to view restoration and forest management techniques that were employed in the aftermath of the Cerro Grande fire.

The committee adjourned at 2:30 p.m.

- 8 -

**MINUTES
of the
FOURTH MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE**

**September 1-2, 2005
Workforce Training Center
Albuquerque**

The fourth meeting of the Water and Natural Resources Committee was called to order at 10:10 a.m. on Thursday, September 1, 2005, by Senator Carlos R. Cisneros, chair.

PRESENT

Sen. Carlos R. Cisneros, Chair
Rep. Joe M Stell, Vice Chair
Sen. Sue Wilson Beffort (September 2)
Rep. Ray Begaye
Rep. Joseph Cervantes (September 2)
Sen. Dede Feldman
Sen. Mary Jane M. Garcia
Rep. Larry A. Larrañaga
Rep. Kathy A. McCoy
Sen. Steven P. Neville
Rep. Andy Nunez
Sen. Mary Kay Papen
Sen. H. Diane Snyder
Rep. Sandra L. Townsend

Advisory Members

Sen. Rod Adair
Sen. Vernon D. Asbill
Rep. Anna Marie Crook
Rep. Candy Spence Ezzell
Rep. Rhonda S. King
Rep. Ben Lujan (September 2)
Rep. James Roger Madalena (September 2)
Rep. Greg Payne
Rep. Danice Picraux
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Henry Kiki Saavedra
Sen. Leonard Tsosie
Rep. Peter Wirth
Rep. Eric. A. Youngberg (September 1)

ABSENT

Rep. Dona G. Irwin
Sen. Cynthia Nava
Rep. Mimi Stewart
Rep. Don L. Tripp

Rep. Richard P. Cheney
Sen. Clinton D. Harden, Jr.
Sen. Timothy Z. Jennings
Sen. Gay G. Kernan
Sen. Leonard Lee Rawson

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Gordon Meeks
Evan Blackstone
Jeret Fleetwood

Guests

The guest list is in the meeting file.

Thursday, September 1

**ALBUQUERQUE-BERNALILLO COUNTY WATER UTILITY AUTHORITY
STATUS REPORT**

Mark Sanchez, executive director of the Albuquerque-Bernalillo County Water Utility Authority (ABCWUA), updated the committee on the status of the water authority. He began by providing the committee with a brief history of the authority and its makeup and then discussed how the authority provides water and wastewater service to local citizens. Mr. Sanchez pointed out several of the authority's accomplishments, such as odor control projects, conservation efforts, leak detection programs and pipeline construction. He also noted several projects that the authority either has planned or has already begun work on, such as a drinking water project that will treat water from the Rio Grande in an effort to reduce reliance on pumped ground water.

John Stomp, manager of the Water Resources Division of the ABCWUA, provided the committee with information regarding the drinking water project the utility is currently working on. He also discussed the authority's conservation program, noting that the authority has actually been able to exceed its water conservation goals for several years. Mr. Stomp pointed out that such conservation measures will allow the Albuquerque area to continue to grow without drastic increases in water use. Finally, Mr. Stomp discussed the authority's proposed surface water distribution system and the construction of a water treatment plant and transmission lines across the city, all of which should allow the authority to perform its duties even more efficiently.

Mary Murnane of the Bernalillo County Public Works Division provided the committee with an overview of the Valley Utilities Project. She explained that the project, begun six years ago, is focused on providing sewer service to large areas, noting the large number of hookups that have either already taken place or are in progress. Ms. Murnane discussed the status of several smaller projects within the Valley Utilities Project, as well as funding mechanisms for those projects.

Questions and comments included:

- city, state and federal funding commitments;
- source of state funds;
- use of capital outlay funds for projects;

- governance of the ABCWUA;
- the impact of concrete shortage on project construction;
- the condemnation process;
- Native American representation on the ABCWUA;
- use of San Juan/Chama water for ABCWUA projects; and
- the ability of one legislature to bind another to expend money.

On a motion made, seconded and unanimously approved, the minutes of the August 4-5 meeting were approved as submitted.

WATER USE BUDGETING AND ACCOUNTING

John D'Antonio, state engineer, discussed the importance of New Mexico's water assets and pointed out that the Drought Task Force, assembled two years ago, learned that many of the "communities in crisis" were actually affected more by a lack of water system maintenance than by the drought itself.

Matt Holmes of the New Mexico State Rural Water Association provided the committee with an overview of unaccounted-for water (UAW) and the problems it creates for water systems. He pointed out that while UAW is difficult to clearly define, it does have an impact on water system costs, in part because it produces no revenue. Mr. Holmes went on to divide UAW into apparent losses and real losses, noting that real losses such as leaks within the system, usually account for the largest volume of water lost by utilities.

To help combat losses due to UAW, Mr. Holmes recommended implementation of water auditing and accountability programs. He pointed out that such programs would help make more efficient use of New Mexico's limited water resources, as well as potentially saving large quantities of money and water.

Questions and comments included:

- water use statistics for New Mexico communities;
- aquifer recharge from water system leaks;
- leak detection technology;
- UAW statistics for New Mexico communities; and
- costs associated with water loss programs.

WATER SYSTEM ASSET MANAGEMENT

Heather Himmelberger, director of the New Mexico Environmental Finance Center, provided the committee with remarks concerning the asset management (AM) approach to utility and water resource management. She explained that the AM approach can help utilities make better decisions and help ensure a system's long-term financial sustainability. Ms. Himmelberger then walked the committee through the five core AM questions, explaining how each one helps utilities to deliver services to their customers while simultaneously considering long-term funding and maintenance strategies. Finally, she noted several geographic areas, such as Orange County, California, and Seattle,

Washington, where implementation of AM techniques has been highly successful.

Questions and comments included:

- whether AM techniques can be tied to water system security.

WATER SYSTEM FINANCIAL PLANNING

Blanca Surgeon and Olga Sanchez, both of the Rural Community Assistance Corporation, provided the committee with testimony regarding the importance of water system financial planning. They explained that without a financial plan in place, even small water systems will have a difficult time safeguarding their assets, planning for future events, meeting debt requirements and building enough financial reserves to cover repairs and replacements. Nevertheless, Ms. Surgeon and Ms. Sanchez noted that few water systems have financial plans in place.

Ms. Surgeon and Ms. Sanchez went on to detail the major components of a typical financial plan, such as revenues, expenditures, reserves and cash balances. They also emphasized the importance of written financial controls and annual expense reports to help a well run system safeguard its money and records. Ms. Surgeon and Ms. Sanchez also noted the importance of metering all users on a water system to better understand the costs associated with providing water service. Finally, they pointed out that a well designed financial plan can help build customer support for water rate increases because it gives users some idea about the costs associated with operation and maintenance of the system.

Questions and comments included:

- water rate comparisons between public and private water systems; and
- cross-subsidization of water expenses.

WATER RATES AND AFFORDABILITY

Professor Janie Chermak, associate professor of economics at the University of New Mexico (UNM), and Jason Hansen, a graduate student at UNM, provided the committee with a summary of their research regarding the relatively small amount of money that the average New Mexican pays for water. Dr. Chermak and Mr. Hansen began by giving the committee an overview of how water rates fit into the average New Mexican family's monthly budget, pointing out that, in some parts of the state, families spend an average of \$350 a month on groceries, compared to \$22 a month for 6,000 gallons of water. They noted that among necessary expenditures made by the average family each month, such as groceries, home loan interest, health insurance, gasoline and auto repairs, water usually accounts for one of the smallest expenditures.

Dr. Chermak and Mr. Hansen indicated that in Texas the average community's expenditure for water is 1.5 percent of its annual income, compared with .77 percent in New Mexico. They also provided the committee with some idea of how much it would cost the average New Mexican family if water rates were increased. Dr. Chermak and Mr. Hansen illustrated the ability of families to absorb a water rate increase by pointing

out that dramatically rising gasoline costs have done little to alter the driving habits of most New Mexicans. However, they also suggested that increased water rates could lead to better conservation practices, too.

Questions and comments included:

- information from the 2000 census as the source of average New Mexican family data; and
- the impact of rate increases on the poorest New Mexican families.

The committee recessed at 5:15 p.m.

Friday, September 2

CONSERVATION FUNDING AND OTHER ENVIRONMENTAL LEGISLATIVE INITIATIVES

Edward Archuleta of Animal Protection of New Mexico provided the committee with testimony regarding funding of land and wildlife conservation programs in New Mexico. He explained that most western states have dedicated, sustainable funding streams for land and wildlife conservation, while New Mexico makes decisions regarding such funding on a year-to-year basis. Mr. Archuleta also noted that survey data indicate that most New Mexicans support land and wildlife conservation funding. He suggested that New Mexico is not matching the conservation efforts of neighboring states.

Mr. Archuleta went on to discuss New Mexico's conservation needs, indicating that meeting those needs will require a state investment of \$37 million to \$48 million for several years. He also provided the committee with a number of potential revenue streams that would provide the funding required to meet New Mexico's conservation needs. Finally, Mr. Archuleta suggested that if the legislature was unable to provide appropriate sufficient land and wildlife conservation funding in the upcoming legislative session, it would be helpful for the legislature to charge the appropriate interim committee with developing legislation that identifies sustainable conservation funding.

Cynthia Bodine, a New Mexican landowner, discussed the importance of the Surface Owner's Protection Act, which was introduced in the 2005 legislative session but ultimately did not pass. She explained that currently, landowners have little say in where some mining equipment is located on their property.

Dr. Ben Luce, chair of the Coalition for Clean, Affordable Energy, provided the committee with testimony regarding solar energy incentives for New Mexico. He explained that a solar energy incentive would benefit New Mexicans by saving consumers money on heating bills, creating skilled jobs through the production and installation of solar panels and reducing emissions. Dr. Luce also noted that in addition to the governor, recent polling data indicate that most New Mexicans support solar energy development and incentives. He also discussed a proposed state solar energy tax credit, which could be applied to 30 percent of the cost of installing a solar heating

system, as well as more modest federal solar tax credits.

Dr. Luce also indicated that advances in solar technology make it highly unlikely that the problems associated with solar energy in the 1980s will recur. Finally, he provided the committee with information on how a solar heating system would function and the operational costs of solar heating versus conventional heating systems.

Questions and comments included:

- criticism that the Surface Owner's Protection Act was not clearly listed on the agenda.

PUBLIC/PRIVATE WATER SYSTEM FINANCING PARTNERSHIPS

Maurice Hobson, lobbyist, provided the committee with an overview of public/private water system financing partnerships. He explained that 60 percent of the U.S. population gets water from private producers, and he noted some of the private water systems that are operating in New Mexico. Mr. Hobson went on to discuss the success of a public/private water system financing partnership in Horizon City, Texas. He explained that the Horizon Regional Municipal Utility District was having water supply problems, as well as difficulty complying with some water quality standards. Mr. Hobson indicated that the Southwest Water Company, a private entity, formed a partnership with the Horizon Regional Municipal Utility District to construct and operate a reverse osmosis facility. He went on to note that the water treated by reverse osmosis could then be blended with well water to help address both water supply and water quality issues, and he showed the committee the relatively low cost of treating 1,000 gallons of water. Finally, Mr. Hobson provided the committee with a basic overview of how the reverse osmosis process works.

Questions and comments included:

- the effect of pumping for reverse osmosis on aquifers.

DESALINATION PROSPECTS

Linda Weiss, state director, United States Geological Survey, provided the committee with testimony regarding desalination of ground water in New Mexico. She explained that much of the ground water in New Mexico has saline levels that are too high to be of much use without being treated, but that advances in desalination technology have made such treatment more affordable. Ms. Weiss went on to discuss some of the issues that must be considered before pursuing desalination of ground water, such as the salinity of the source water, yield, the effect that ground-water pumping and treatment will have on adjoining freshwater systems and waste disposal issues. Finally, she showed the committee the areas in New Mexico where ground water has been evaluated for desalination, as well as which aquifers would likely yield the most water.

Questions and comments included:

- suitability of aquifers in Santa Fe County for desalination;
- beneficial uses of salt left over from the desalination process; and
- whether New Mexico should pursue desalination or conduct desalination studies.

The committee adjourned at 12:10 p.m.

**MINUTES
of the
FIFTH MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE**

**September 28-29, 2005
New Mexico State University Golf Course Club House
Las Cruces**

The fifth meeting of the Water and Natural Resources Committee was called to order at 10:10 a.m. on Wednesday, September 28, 2005, by Senator Carlos R. Cisneros, chair.

PRESENT

Sen. Carlos R. Cisneros, Chair
Rep. Joe M Stell, Vice Chair
Rep. Ray Begaye
Rep. Joseph Cervantes
Sen. Mary Jane M. Garcia (September 28)
Rep. Larry A. Larrañaga
Sen. Cynthia Nava
Sen. Steven P. Neville
Rep. Andy Nunez
Sen. Mary Kay Papen
Rep. Mimi Stewart
Rep. Sandra L. Townsend
Rep. Don L. Tripp

Advisory Members

Sen. Rod Adair
Sen. Vernon D. Asbill
Rep. Anna M. Crook
Rep. Candy Spence Ezzell
Sen. Leonard Lee Rawson
Sen. Nancy Rodriguez
Sen. John C. Ryan
Sen. Leonard Tsosie (September 29)
Rep. Peter Wirth

ABSENT

Sen. Sue Wilson Beffort
Sen. Dede Feldman
Rep. Dona G. Irwin
Rep. Kathy A. McCoy
Sen. H. Diane Snyder

Rep. Richard P. Cheney
Sen. Clinton D. Harden, Jr.
Sen. Timothy Z. Jennings
Sen. Gay G. Kernan
Rep. Rhonda S. King
Rep. Ben Lujan
Rep. James Roger Madalena
Rep. Greg Payne
Rep. Danice Picraux
Rep. Henry Kiki Saavedra
Rep. Eric A. Youngberg

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Gordon Meeks
Evan Blackstone
Jeret Fleetwood

Guests

The guest list is in the original meeting file.

Wednesday, September 28**WELCOME TO LAS CRUCES AND TO NEW MEXICO STATE UNIVERSITY**

Dr. William Flores, provost at New Mexico State University (NMSU), welcomed the committee to NMSU and provided the committee with a brief history of the meeting facility and an overview of some of the water-related projects currently underway at NMSU.

William M. Mattiace, mayor of Las Cruces, welcomed the committee to Las Cruces and briefly discussed the importance of water to the community, as well as some of the efforts made by the city to make more efficient use of its limited water resources.

WATER PLANNING USING GEOGRAPHIC INFORMATION

Janet Jarratt of the Middle Rio Grande Conservancy District and Karl Benedict of the Earth Data Analysis Center provided the committee with an overview of their proposed project to use Geographic Information Systems (GIS) to help with the water planning process along the middle Rio Grande. They began by explaining that GIS are computerized information management systems designed for the creation, management and analysis of data that relate objects or events to specified locations. For example, they explained that by combining several layers of data, such as information regarding urban and agricultural areas, elevation, roads and streams, they can create a GIS that would show how various water-use strategies will likely affect a particular area like the middle Rio Grande.

Next, Ms. Jarratt and Mr. Benedict discussed how the Middle Rio Grande Water Assembly worked to develop the Middle Rio Grande Water Plan, which they noted was a cooperative effort among a number of stakeholders. They indicated that the water budget developed as part of the Middle Rio Grande Water Plan would require careful use of available water resources in order to be able to supply water to the region's growing population.

Then Ms. Jarratt and Mr. Benedict explained that their project involves the use of GIS data to help make more efficient use of water resources. They explained that their project would make GIS data and water-use models available via the internet. Ms. Jarratt and Mr. Benedict emphasized that their GIS project is fairly user-friendly and does not require a scientific background to use. They also suggested that making it available to everyone would likely foster a greater understanding among water stakeholders in the area about how various water and land-use strategies would affect the region as a whole, which would in turn lead to better use of

water resources.

Finally, Ms. Jarratt and Mr. Benedict noted that they are seeking \$80,000 in state funding to begin work on their project.

Questions and comments included:

- to which agency the funding from the state would be allocated;
- whether similar models could be created for other regions;
- the similarities and differences between middle Rio Grande GIS models and other computer models of water use;
- how success of the proposed GIS project would be measured;
- domestic well information in GIS models; and
- the value of the GIS model to people without technical backgrounds versus other water models that demand some technical proficiency in order to be useful.

DONA ANA COUNTY FARM AND LIVESTOCK BUREAU (DACFLB)

Craig Tharp and Phil Arnold, members of the DACFLB, provided the committee with testimony regarding the activities of their organization. They explained that farmland is being taken out of production and developed for other uses and that those developments increase the demand for domestic water. Mr. Tharp and Mr. Arnold suggested that continuation of that trend could mean that one day there will not be enough farmland to adequately provide food for the population of the United States, and food will have to be imported from other countries. They explained that one of the missions of their organization is to promote farming to children in New Mexico, and they provided the committee with an overview of some of the programs DACFLB has in place to do so, such as Kids, Cows and More, buses to the state fair and scholarship programs.

Mr. Tharp and Mr. Arnold went on to discuss several of the DACFLB's legislative priorities, particularly domestic well issues.

Questions and comments included:

- importance of farming to local communities;
- domestic well permits;
- improved irrigation technology;
- impact of the Supreme Court's ruling regarding property condemnation; and
- other problems facing agriculture, such as importation of cattle and foreign competition.

On a motion made, seconded and unanimously approved, the minutes of the September 1-2, 2005 meeting were approved as submitted.

STATE PRIMACY FOR THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)

Randy Traynor, a lobbyist with the New Mexico Home Builders Association and the National Association of Industrial and Office Properties, began by providing the committee with an overview of the NPDES. He explained that the system is contained within the federal Clean

Water Act and that it involves the issuance of permits for various industrial and municipal water discharges. Mr. Traynor pointed out that permits for storm sewer systems in large cities, certain activities at construction sites, mining operations and animal feedlots all fall under NPDES. He went on to note that while the federal Environmental Protection Agency (EPA) currently handles permit requests for New Mexico out of its Region 6 office in Dallas, Texas, it is the intention of the New Mexico Department of Environment (NMED) to gain authorization to issue NPDES permits, which is sometimes called primacy.

Next, Mr. Traynor provided the committee with an overview of the changes that NMED primacy over NPDES permits would bring. He explained that NMED plans to phase in primacy over several years and that it will likely seek authorization to begin phase one from the legislature during the upcoming legislative session. However, Mr. Traynor warned that concerns expressed by New Mexico businesses and industries over how NMED plans to operate its NPDES permitting program have gone unaddressed. He went on to list several of those concerns, such as the fact that while the EPA does not charge for permits, NMED likely will begin to charge for permits; how the program will be budgeted; how NMED primacy will improve on the EPA's program; and how NMED primacy will affect the daily operations of the entities involved.

Mike Bowen of the New Mexico Mining Association provided the committee with an overview of the mining industry's concerns over NMED primacy. He echoed Mr. Traynor's concerns about NMED charging fees for permits even though the EPA charges none. However, Mr. Bowen indicated that the mining industry has worked with NMED since it first began to seek primacy and continues to work with it to identify and address issues.

John Horton, government affairs director, Associated General Contractors, also discussed concerns over NMED seeking primacy over NPDES permitting. He pointed out that the system that is already in place, in which contractors file storm water pollution plans for their construction sites with the EPA, seems to work well. Mr. Horton also discussed Court of Appeals cases involving violations of the federal Endangered Species Act of 1973 and their impact on the primacy issue. Finally, he cautioned the legislature to move slowly when considering legislation enabling the NMED to take over NPDES primacy from the EPA.

Sharon Lombardi, executive director, Dairy Producers of New Mexico, discussed the relationship of dairies to the NPDES permitting process. She explained that there are various divisions within NPDES that require different permits, such as the Concentrated Animal Feed Operations (CAFO) permits and ground water discharge plans. She noted that while most dairies band together to obtain a general CAFO permit to cover their operations, confusion over the waiting period for those permits and NMED's attempt to gain primacy over the permitting process has caused several dairies to go ahead and obtain individual permits.

Walter Bradley, representing dairy farmers, provided the committee with an example of NMED's proposed language regarding surface waters of the state. He explained that while NMED had initially agreed to keep its NPDES regulations as stringent as the federal ones, the proposed surface-water language is actually much more stringent than the federal regulations.

Mr. Bradley pointed out that some of the proposed NMED surface-water definitions are so broad that they could even apply to golf course water hazards and possibly a depression in the middle of the desert that holds rainwater.

Mr. Bradley went on to discuss other concerns the dairy industry has with NMED's proposed primacy over NPDES permitting. First, he noted that the program is difficult to run, so much so that Arizona, Louisiana and Nevada have all had difficulty maintaining the program and that a lawsuit between dairies and the state of Texas will likely cause serious financial problems for that state. Mr. Bradley also noted that primacy will likely be expensive for New Mexico, too, as it appears that the first phase of NMED's proposed program will cost \$1.4 million.

Mr. Traynor summarized the comments of the previous speakers and emphasized that if the legislature is going to consider enabling legislation for primacy, it should move slowly in doing so.

Ron Curry, secretary of environment, and Cindy Padilla, Brett Moore and Marcy Levitt, NMED, provided the committee with further information regarding NMED's intention to assume primacy. They explained the NPDES program and NMED's motive for attempting to assume primacy. Secretary Curry explained that the issue is simply about providing better protection for New Mexico's surface water. He also indicated that while taking over the NPDES program will require several new full-time positions, resources such as corrective action funds and permit fees will help offset the additional costs. Secretary Curry went on to discuss the formation of the NPDES stakeholder work group, which was set up to address concerns such as those expressed by the business community over primacy. Finally, he outlined the potential benefits of NPDES primacy, such as better oversight of New Mexico's surface-water resources, increased flexibility in permitting and fines and local oversight over NPDES programs, as opposed to permit holders having to communicate with the EPA office in Dallas.

Questions and comments included:

- how improvements that usually come with bringing government regulation closer to the people are being regulated;
- how other states have had primacy but lost it;
- shifting EPA resources;
- whether state primacy regulations can be weaker than federal regulations;
- the appeal process on NMED fines;
- the definition of United States surface water; and
- NMED's plan for phasing in primacy.

ACTIVE WATER RESOURCE MANAGEMENT EFFECTS IN THE LOWER RIO GRANDE BASIN

Gary Esslinger of the Elephant Butte Irrigation District (EBID) provided the committee with testimony regarding the effects of Active Water Resource Management (AWRM) on water users in the Lower Rio Grande Basin. First, he discussed legal issues involving EBID, the El Paso Water Improvement District, New Mexico and Texas. Mr. Esslinger pointed out that EBID's location close to the border between Texas and New Mexico places a heavy burden on the irrigation district to ensure that compact deliveries are made to Texas. However, he noted that it is the state that must deliver water to Texas, not EBID.

Next, Mr. Esslinger explained that the Office of the State Engineer (OSE) declared that the Lower Rio Grande Basin was a closed basin, at which time it appointed a water master to oversee water management in the area. Mr. Esslinger went on to explain that while water users in the area will have to pay the water master's salary, many of the duties of the water master are already performed by EBID, which would mean that members of EBID would have to pay twice for the same service. He indicated that EBID would like to see the legislature direct the OSE and the Interstate Stream Commission (ISC) to pay for the water master instead of EBID, as well as pass legislation limiting the duties of water masters.

Questions and comments included:

- changes in water management practices due to prolonged drought conditions;
- AWRM requiring water users to pay for services the state should take care of;
- legislation passed to pay for adjudications, which was challenged by the Department of Finance and Administration and later ruled an appropriate legislative action by the attorney general;
- whether acequias exist in southern New Mexico;
- special irrigation district regulations compared to those of acequias; and
- effects of high fuel costs on agricultural industry.

On a motion made, seconded and unanimously passed, the committee directed staff to send a letter to the governor on behalf of the committee asking him to evaluate the impact of rising fuel costs on the agricultural industry when considering legislation to include in the proclamation calling the legislature into special session.

Thursday, September 29

NMSU'S ROLE IN ADDRESSING WATER ISSUES

Michael Martin, president, NMSU, welcomed the committee to NMSU and provided it with a brief history of the school. He also pointed out that NMSU recently became the first school in the nation to broadcast a football game in Navajo. Dr. Martin went on to discuss changes the university has made in research and outreach by clustering existing talent together to help solve real problems. He provided examples of research clusters for border issues, biosciences, information sciences, aerospace engineering and sustaining natural resources in an arid climate. Dr. Martin pointed out that the research cluster focusing on sustaining natural

resources involves improving irrigation, developing more drought-resistant plants, desalination and projects to protect both the quality and quantity of water available in the region.

Dr. Martin then discussed other issues involving NMSU, such as increases in enrollment, faculty issues and efforts to recruit and retain students. He explained that there were two periods of major U.S. college and university enrollment growth: the G.I. Bill and the baby boomer generation. Dr. Martin noted that many of those who attended college during those periods went on to become faculty, and that many of those faculty members either have retired or are quickly approaching retirement age. He explained that one of the points of emphasis at NMSU is trying to prepare as many students as possible to become college professors. Dr. Martin also pointed out that those periods of enrollment expansion coincided with construction of new buildings on many college campuses, and many of those buildings will soon require replacement, too.

Finally, Dr. Martin discussed his goal of having NMSU rank higher, possibly in the top 50, on the list of the top colleges and universities in the United States.

Questions and comments included:

- NMSU working with the city of Alamogordo on desalination projects;
- five-year college programs;
- loss of transfer credits with other New Mexico post-secondary schools; and
- the marketing of NMSU.

LAS CRUCES' WATER ISSUES STATUS REPORT

Terrence Moore, Las Cruces city manager, and Jorge Garcia, utilities director for the city of Las Cruces, provided the committee with an overview of the water initiatives being explored by the city. They discussed programs involving ground water development and well drilling; ground water plume cleanup; surface water planning; conservation and cost-of-service rates; and programs to address new federal uranium regulations. Mr. Moore and Mr. Garcia pointed out that outdoor watering is currently the focus of their conservation efforts, as statistics show that simply too much water is wasted as a result of such practices.

Questions and comments included:

- water rights purchase in the Rincon area;
- plans by the city to construct an ice arena;
- increases in the city's revenue and whether there are plans to use some of that revenue to upgrade utilities;
- wells located in Dona Ana County that pump water to Texas;
- using money from the state to finance new wells to make up for those wells that had to be shut down because of arsenic levels;
- water conservation education programs; and
- efforts to municipalize the electric utility in the Las Cruces area.

NEW MEXICO FARM AND LIVESTOCK BUREAU

John Wortman of the New Mexico Farm and Livestock Bureau emphasized the importance of agriculture to the committee. He explained that people eat and wear the products of farming. However, Mr. Wortman discussed a number of issues, such as water, fuel and labor costs and development that threaten the agricultural way of life by making it too difficult for farmers to make ends meet. He indicated that value-added agriculture is one means of addressing the threat to agriculture by increasing the cost at which some agricultural products can be sold. Mr. Wortman noted that a number of commodities grown in New Mexico could easily be branded and become examples of value-added agriculture.

Dr. Octavio Ramirez, NMSU, provided some more information about value-added agriculture to the committee. He pointed out that poverty and agriculture are directly related, since many poor people live in rural areas that are economically dependent on agriculture. Dr. Ramirez also listed a number of issues that could help ensure that the agricultural sector remains robust, including increasing concern from federal lawmakers about western agriculture; development of better technology for agriculture; improvement of marketing strategies for agricultural products; and expanding markets into Mexico.

Dr. Terry Crawford, NMSU, explained that since New Mexico's agricultural sector is too small to be able to take advantage of economies of size, increased value from agricultural products would have to be sought elsewhere. For example, he pointed out that there is currently no means of processing butter in New Mexico, which deprives dairy farmers of value they could be getting out of their products if a facility to produce butter from milk did exist in New Mexico.

Jay Lillywhite, NMSU, discussed a number of New Mexico agricultural products that could have value added to them and fetch higher prices with the right marketing strategies. For example, he noted that New Mexican wines, green chile, onions and specialty cheeses could all be marketed, as well as agricultural equipment and agri-tourism. Mr. Lillywhite emphasized that the key to value-added agriculture involves a change in mindset and lamented the lack of entrepreneurial desire in New Mexico.

Questions and comments included:

- existing programs that farmers do not take advantage of;
- the Farm and Livestock Bureau as a partisan organization;
- agricultural hemp as a potential value-added agriculture product;
- the impact of the Endangered Species Act of 1973 on agriculture;
- Farm and Livestock Bureau water issues; and
- subsidies for agriculture.

PINK BOLLWORM CONTROL

Robert Sloan of the South Central Pink Bollworm Control District provided the committee with testimony regarding the damage that pink bollworms can cause to agriculture. He also provided an overview of a program that uses state funding to help control pink bollworms, noting that currently there is an emphasis on reducing the use of pesticides while focusing on other methods of control, such as pheromones and trapping. Mr. Sloan indicated

that successful pink bollworm control programs result in increased savings for farmers.

Questions and comments included:

- pink bollworm control programs in El Paso and West Texas; and
- the value of showing beneficial uses of state funds.

There being no further business, the committee adjourned at 12:35 p.m.

**MINUTES
of the
SIXTH MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE**

**November 3-4, 2005
Santa Fe**

The sixth meeting of the Water and Natural Resources Committee was called to order at 10:10 a.m. on Thursday, November 3, 2005, by Senator Carlos R. Cisneros, chair.

PRESENT

Sen. Carlos R. Cisneros, Chair
Rep. Joe M Stell, Vice Chair
Sen. Sue Wilson Beffort
Rep. Ray Begaye
Sen. Mary Jane M. Garcia
Rep. Dona G. Irwin
Rep. Larry A. Larrañaga
Rep. Kathy A. McCoy
Sen. Cynthia Nava
Rep. Andy Nunez
Sen. Mary Kay Papen
Rep. Mimi Stewart
Rep. Sandra L. Townsend
Rep. Don L. Tripp

Advisory Members

Sen. Rod Adair (November 4)
Rep. Anna M. Crook
Rep. Candy Spence Ezzell
Sen. Clinton D. Harden, Jr. (November 3)
Sen. Gay G. Kernan
Rep. Rhonda S. King
Rep. Ben Lujan (November 3)
Rep. James Roger Madalena (November 4)
Rep. Danice Picraux
Sen. Leonard Lee Rawson (November 3)
Sen. Nancy Rodriguez
Sen. John C. Ryan
Sen. Leonard Tsosie (November 4)
Rep. Peter Wirth

ABSENT

Rep. Joseph Cervantes
Sen. Dede Feldman
Sen. Steven P. Neville
Sen. H. Diane Snyder

Sen. Vernon D. Asbill
Rep. Richard P. Cheney
Sen. Timothy Z. Jennings
Rep. Greg Payne
Rep. Henry Kiki Saavedra
Rep. Eric A. Youngberg

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Gordon Meeks
Evan Blackstone
Jon Boller
Jeret Fleetwood

Guests

The guest list is in the original meeting file.

Thursday, November 3

The minutes of the September 28-29, 2005 meeting were approved as submitted.

INTERSTATE STREAM COMMISSION AND STATE ENGINEER BRIEFING

John D'Antonio, state engineer, began by providing the committee with an overview of the Office of the State Engineer's (OSE) accomplishments over the past several years, including active water resource management (AWRM), Native American water rights settlements, progress made on regional water plans and new rules and regulations. He went on to discuss activities of the OSE on the Pecos River, explaining that 30 years of under-delivery of water under the Pecos River Compact and a subsequent lawsuit that cost New Mexico \$14 million led to a 2003 settlement agreement among water users on the river. Mr. D'Antonio explained that the OSE has been working to implement that agreement, but that it will still require another \$14 million to fully implement it.

Next, Mr. D'Antonio discussed Native American water rights settlements in New Mexico. He pointed out that the legislature passed the Indian Water Rights Settlement Fund during the 2005 session, which will help pay for the state's share of implementation of various Indian water rights settlements when the fund receives any money. Mr. D'Antonio then discussed the distribution of settlement funds and the status of several Indian water rights settlements involving New Mexico.

Finally, Mr. D'Antonio discussed the water infrastructure needs of New Mexico and the likely cost of many of those projects. He presented the committee with a table showing the critical major statewide water projects and the state's anticipated cost share to complete them. That total is \$280 million.

Questions and comments included:

- possible litigation between Texas and New Mexico concerning the lower Rio Grande;
- the use of surplus money the state currently has to generate income, such as bonds, to use for water infrastructure projects;
- the progress of adjudications and water courts;
- whether New Mexico is pursuing litigation against any other states or entities;
- rules and regulations for well-drilling;
- Ruidoso water supply issues;
- the possibility of working with the New Mexico Institute of Mining and

Technology and the Bureau of Geology and Mineral Resources to conduct a ground water study;

- the fiscal agent for salt cedar removal projects;
- the potential use of condemnation to acquire water rights; and
- dam safety issues.

WATER SYSTEM PLANNING, PERFORMANCE AND CONSERVATION — RESPONSE TO HJM 86

Mr. D'Antonio and Anne Watkins of the OSE provided the committee with an overview of the large number of drinking water systems in New Mexico and the risks faced by those systems, such as aging infrastructure; water supply availability; limited expansion capacity; problems complying with the federal Safe Drinking Water Act; and infrastructure funding. They explained that these drinking water system problems were identified by the legislature when it passed HJM 86 in 2005, which directed the OSE to develop water system planning, performance and conservation criteria.

Mr. D'Antonio and Ms. Watkins explained that Governor Richardson formed the Water Infrastructure Investment Team through executive order, which in turn created the Water Infrastructure Technical Team. They went on to note that the Water Infrastructure Technical Team developed the criteria for water system planning called for in HJM 86.

Mr. D'Antonio and Ms. Watkins then provided the committee with an overview of the 10 criteria developed by the Water Infrastructure Technical Team. They explained that water projects seeking state funding should be required to: have a financial plan; have fully allocated rate structures; have asset management plans; have water use accounting systems; comply with OSE regulations; comply with other state and federal regulations; have an adequate governance structure; be planning for infrastructure and operations; participate in regional collaboration; and have energy efficiency strategies. In addition to the 10 criteria, the Water Infrastructure Technical Team also provided the committee with several other recommendations, such as revising statutes; metering all water uses; packaging funding as a combination of grants and loans; and establishing a state planning entity.

Questions and comments included:

- inclusion of right-of-way easements into planning criteria;
- the application process for water infrastructure project funding;
- water rates issues;
- the extent of ground water contamination;
- how regionalization will work;
- the relationship to the New Mexico Subdivision Act;
- the effect on tribal lands and inter-jurisdictional planning and coordination;
- qualification of some Navajo systems under this policy;
- which agency approves the projects for funding;
- the uniform financing application;
- metering all users and who monitors the meters;
- threats to completion of projects that have already begun; and

- the applicability to direct appropriations.

WATER SYSTEM GOVERNANCE AND FUNDING

Susan Kelly, associate director of the Utton Center at the University of New Mexico (UNM), and Judy Flynn-O'Brien, interim director of the Institute for Public Law at UNM, provided the committee with an overview of a project they are currently undertaking that reviews and compares the statutes involving water and wastewater systems in New Mexico. They explained that identifying and comparing the sometimes wildly different statutes for water and wastewater systems would help decision-makers better understand both the problems faced in trying to authorize and fund such systems, as well as provide some notion of the statutory tools available for system planning, management and funding.

Ms. Kelly and Ms. Flynn-O'Brien began by noting that the OSE had contacted the Utton Center about such a project, and that the project had been done in conjunction with the UNM Center for Public Law, the OSE, the New Mexico Department of Environment (NMED) and a number of other entities. They also explained that a list of statutes, including the laws under which various water systems are organized and managed, was developed. Ms. Kelly and Ms. Flynn-O'Brien went on to note that the final result of the project is a series of charts listing the different statutes under which water systems are organized. They provided the committee with several of these charts.

Finally, Ms. Kelly and Ms. Flynn-O'Brien noted that several trends became apparent as the project progressed. They provided the committee with a list of issues that the project management team thought were not well-defined within the statutes, such as defined service areas for water systems, financial management of systems and regulatory oversight.

Questions and comments included:

- proposed legislation;
- gated communities;
- imminent domain authority;
- federal water systems;
- Pojoaque Valley joint powers for inter-jurisdictional water authorities;
- acequias; and
- public-private partnerships for water systems and the statutory authority for them.

NMED — COOPERATIVE EXTENSION SERVICE COLLABORATIVE — RESPONSE TO HM 66

Ron Curry, secretary of environment, and Paul Gutierrez, Cooperative Extension Service, summarized the response of the department and the service to House Memorial 66. The memorial requested better coordination between the organizations to protect the environment and improve communication and outreach in rural New Mexico. The Cooperative Extension Service is distributing information pamphlets on septic tanks and rules governing septic tank installation. NMSU and the Cooperative Extension Service will probably house a wastewater treatment training center and cooperate in developing the curriculum. There are also plans to cooperate on the statewide climate change group. Shared

educational and training opportunities will be pursued by placing information brochures from the organizations in their respective field offices. Special attention will be paid to information outreach concerning the federal Clean Water Act and NMED's enforcement of the state Water Quality Control Act.

Questions and comments included:

- legislation for next session;
- the applicability of rules on liquid waste systems;
- rules for accommodating low-income wastewater system owners;
- new technologies for improving septic systems;
- outreach for confined animal feeding operations; and
- the climate change group's appreciation of NMSU President Martin's role.

Friday, November 4

LEGISLATIVE REQUESTS

The committee discussed and endorsed the following measures for introduction in the next legislative session:

1. an appropriation for small agricultural producers;
2. the produced water tax credit;
3. Sanitary Projects Act changes;
4. boating safety education requirement;
5. capital outlay for Cabresto Lake dam stabilization and improvement;
6. the state engineer's administrative hearings process;
7. capital outlay for the El Valle de los Ranchos Water and Sanitation District;
8. an appropriation for cloud seeding;
9. an appropriation for the Water Trust Fund;
10. an appropriation for the state engineer's water adjudication expenses;
11. an appropriation for the state engineer's water masters to enforce senior water rights;
12. an appropriation for major statewide priority water infrastructure projects;
13. an amendment to the 40-year water planning statute to add public schools; and
14. an appropriation for a salt cedar removal program.

ACEQUIA ISSUES

Paula Garcia of the New Mexico Acequia Association and Arthur Chavez of the Taos Acequia Association provided the committee with an update on the status of acequia issues in New Mexico. They explained that acequias are under pressure and vulnerable as a result of their dependence on volunteers for work and their location in primarily rural areas of the state. Ms. Garcia indicated that areas near acequia systems that find themselves in need of water often turn to acequias to fulfill their water needs. She went on to note that strengthening acequia governance would help make the acequias and their users less vulnerable to outside pressure.

Ms. Garcia then provided the committee with two legislative proposals. The first proposal involves tort liability for acequia volunteers. She explained that while acequias themselves are immune to tort claims, volunteers who work on acequias are not. Ms. Garcia indicated that individuals have been sued recently for actions they performed while volunteering for work on acequias and pointed out that such lawsuits discourage participation in acequia activities. She asked the committee to consider endorsing legislation that clarifies tort liability and acequias. The second proposal Ms. Garcia brought before the committee was a memorial regarding youth involvement with acequias.

Finally, Ms. Garcia discussed a number of other areas of concern to the New Mexico Acequia Association, including AWRM rule promulgation by the OSE; water masters assigned by the OSE; stock pond regulation; and the possibility of dedicating a subcommittee of the Water and Natural Resources Committee to acequia issues. The committee referred the acequia tort claims liability bill to the interim Courts, Corrections and Justice Committee.

STATE MINE INSPECTION

Rebecca Boam, director of the Bureau of Mine Safety, provided the committee with an overview of the various changes to the statutes regarding the mine inspections that the Mine Safety Advisory Board intends to seek in the upcoming legislative session. She explained that the board had examined the statutory duties of the state mine inspector recently and determined that they were not aligned with current practices. Ms. Boam went on to indicate that a fair amount of duplication of effort exists between state and federal entities, particularly with regard to enforcement of safety regulations at deficient mine sites. She noted that the state mine inspector currently plays more of an educational role, rather than enforcing safety regulations, for which she said federal inspectors are primarily responsible. Ms. Boam pointed out that even if the statutes were changed to keep enforcement with federal authorities, the state mine inspector would still visit mine sites regularly.

Finally, Ms. Boam provided the committee with a list of other potential changes to statutes regarding mine safety. For example, she noted that a clearer process for mines appealing decisions against them would be helpful. Ms. Boam also suggested repealing any outdated mine safety statutes.

On a motion made, seconded and unanimously approved, the committee endorsed the proposed changes to state statutes regarding mine safety.

Questions and comments included:

- whether or not there would be an executive message from the governor making the suggested bills germane to the 30-day session;
- miner training and certification;
- the annual Bureau of Mine Safety budget; and
- certification of coal miners.

There being no further business, the committee adjourned at 1:30 p.m.

SENATE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

DISCUSSION DRAFT

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO SANITARY PROJECTS; AMENDING THE SANITARY PROJECTS
ACT WITH REGARD TO ASSOCIATIONS; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978 RELATING TO FUNDING SANITARY
PROJECTS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-29-2 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-28-2, as amended) is amended to read:

"3-29-2. DEFINITIONS.--As used in the Sanitary Projects
Act:

A. "community" means ~~[any]~~ a rural unincorporated
community and includes a combination of two or more rural
unincorporated communities when they have been combined for the
~~[purpose of securing the benefits of]~~ purposes set forth in the
Sanitary Projects Act;

.159133.2

1 B. "association" includes ~~[any]~~ an association or
2 mutual domestic water consumer association organized under Laws
3 1947, Chapter 206, Laws 1949, Chapter 79 or Laws 1951, Chapter
4 52, as well as any association organized under the provisions
5 of the Sanitary Projects Act;

6 C. "department" means the department of environment;
7 ~~[and~~

8 ~~D. "fund" means the sanitary projects fund]~~

9 D. "member" or "membership" means a person who has
10 paid the appropriate fees and has been issued a certificate as
11 required by association bylaws;

12 E. "person" means a single residence or property
13 owner, as determined by the rules and regulations adopted by
14 the association's board of directors; and

15 F. "project" means a water supply or reclamation,
16 storm drainage or wastewater facility owned, constructed or
17 operated by an association."

18 Section 2. Section 3-29-3 NMSA 1978 (being Laws 1965,
19 Chapter 300, Section 14-28-3, as amended) is amended to read:

20 "3-29-3. PURPOSE OF ACT ~~[STATEMENT OF POLICY]~~.--The
21 purpose of the Sanitary Projects Act is to improve the public
22 health of ~~[the people of New Mexico through a program that will~~
23 ~~provide for the installation of sanitary domestic water~~
24 ~~facilities, sewage works or both and thus eliminate present~~
25 ~~hazardous practices and conditions. It is, therefore, declared~~

1 ~~to be the policy of the legislature to assist in providing~~
2 ~~facilities for the development of adequate, sanitary domestic~~
3 ~~water supplies, sewage works or both, together with all parts~~
4 ~~and appurtenances as may be needed to provide water supplies,~~
5 ~~sewage works or both in rural unincorporated communities]~~ rural
6 communities in New Mexico by providing for the establishment
7 and maintenance of a political subdivision of the state that is
8 empowered by the state to receive public funds for acquisition,
9 construction and improvement of water supply, storm drainage
10 and wastewater facilities in communities, and to operate and
11 maintain such facilities for the public good."

12 Section 3. Section 3-29-4 NMSA 1978 (being Laws 1965,
13 Chapter 300, Section 14-28-4, as amended) is amended to read:

14 "3-29-4. PROJECTS [~~ASSOCIATIONS--AID OF DEPARTMENT~~
15 ~~DIVISION--ENGINEER--PAYMENT FOR CONSTRUCTION]~~ .-- [~~In order to~~
16 ~~effectuate this policy and to promote the general health and~~
17 ~~welfare of the rural communities of New Mexico, the department~~
18 ~~is empowered and directed and shall be provided financial~~
19 ~~assistance to carry out the legislative intent from the fund~~
20 ~~and to formulate and keep current a program of projects for~~
21 ~~construction in said communities. The projects to be included~~
22 ~~within such program shall be located or determined by the board~~
23 ~~of directors of the association which shall be created in each~~
24 ~~community participating in the program for the sponsoring and~~
25 ~~maintenance of such project, acting upon recommendations from~~

.159133.2

1 ~~and subject to the approval of the department.] Plans,~~
2 ~~specifications and contracts [as specified in Section 14-28-5~~
3 ~~NMSA 1953] for each project, as appropriate, shall be prepared~~
4 ~~by a [licensed] practicing professional engineer licensed under~~
5 ~~the Engineering and Surveying Practice Act and selected by the~~
6 ~~association [and approved by the department for each project]~~
7 ~~in accordance with the provisions of [Sections 67-21-29 through~~
8 ~~67-21-53 NMSA 1953. The engineer shall also supervise the~~
9 ~~construction and installation of the project and shall act as~~
10 ~~coordinator and mediator between the contractor awarded the~~
11 ~~contract and the association concerned. The services of the~~
12 ~~engineer shall be secured by the association with the approval~~
13 ~~of the department except that if a project is of such small~~
14 ~~scale as not to be economically feasible to contract for~~
15 ~~engineering services, the department may furnish a licensed~~
16 ~~professional engineer from within the department to furnish~~
17 ~~such services. Reimbursement for services so rendered shall be~~
18 ~~made out of the fund, subject to the approval of the president~~
19 ~~of the association concerned as their agent and also subject to~~
20 ~~the approval of the department. Payment shall be made in two~~
21 ~~installments: one to cover the cost of preparing the plans,~~
22 ~~specifications and contract documents; the final payment to be~~
23 ~~made upon completion of the project to cover the cost of~~
24 ~~supervising the construction and installation. After approval~~
25 ~~of the plans, specifications and contract documents, the state~~

1 ~~purchasing agent shall call for and receive bids for~~
2 ~~construction of the project and shall award the bid as provided~~
3 ~~by law. The state reserves the right to reject any and all~~
4 ~~bids. Payment to contractors from state funds shall be made as~~
5 ~~follows: forty percent of the bid price may be paid upon fifty~~
6 ~~percent completion of the project; the final payment of sixty~~
7 ~~percent shall be made upon completion of the project and final~~
8 ~~testing and acceptance] the Procurement Code."~~

9 Section 4. Section 3-29-5 NMSA 1978 (being Laws 1965,
10 Chapter 300, Section 14-28-5, as amended) is amended to read:

11 "3-29-5. [~~PREREQUISITE FOR INITIATING A PROJECT~~]
12 RESTRICTIONS ON FORMING AN ASSOCIATION.--

13 [~~A. As a prerequisite to initiating a project, it~~
14 ~~shall be necessary for the sponsors of each project to submit a~~
15 ~~written proposal to the department that shall:~~

16 (1) ~~state the number of families in the~~
17 ~~association and that all rights of way needed can and will be~~
18 ~~obtained by the association;~~

19 (2) ~~make formal application to the department~~
20 ~~for a grant-in-aid from the fund;~~

21 (3) ~~agree to assist the engineer engaged to~~
22 ~~prepare the plans and specifications in every reasonable way;~~
23 ~~and~~

24 (4) ~~agree to contribute all unskilled labor~~
25 ~~and such skilled labor as is available and desirable and shall~~

1 ~~further agree to contribute local materials such as sand,~~
2 ~~gravel, stone, timbers, vigas, adobes and other materials that~~
3 ~~it is feasible and desirable to obtain locally. They shall~~
4 ~~further agree to finish the project on or before the date~~
5 ~~specified at the time the contracts are awarded.~~

6 ~~B.—No]~~ A. A new association shall not be formed under
7 the Sanitary Projects Act by original incorporation after
8 January 1, 2000, and ~~[no]~~ a new association shall not be formed
9 by reorganization after January 1, 2000, unless the
10 ~~[predecessor]~~ preceding entity was in existence on January 1,
11 2000, if the service area of either association includes
12 property contiguous to an incorporated municipality or an
13 unincorporated area currently served by a municipality. The
14 restrictions on forming an association set forth in this
15 subsection shall not apply if the contiguous incorporated
16 municipality does not provide the services or cannot provide
17 the services to be provided by the association at or below the
18 cost proposed by the association.

19 ~~[G.—No]~~ B. An association may not construct with
20 state funds a project required in order to allow creation of a
21 subdivision under the provisions of the Land Subdivision Act,
22 the New Mexico Subdivision Act or Section 47-5-9 NMSA 1978;
23 however, an association may construct a project serving a
24 previously approved subdivision in the service area of the
25 association.

1 ~~[D. After the association has been formed and a~~
2 ~~practicing professional engineer has been engaged to handle the~~
3 ~~plans, specifications and contract documents for the job, the~~
4 ~~engineer shall list separately the balance of all labor,~~
5 ~~materials and equipment and other items that are to be paid for~~
6 ~~from state funds and that are necessary to ensure the~~
7 ~~completion of an operating project, aside from the detailed~~
8 ~~estimates covering labor and material contributions by the~~
9 ~~association. Cost estimates shall be provided for all items~~
10 ~~listed in the mutual contract and the totals shall indicate the~~
11 ~~cost of the project to the state and also the estimated~~
12 ~~equivalent total cost the association is contributing.~~
13 ~~Projects shall not be approved unless the estimated equivalent~~
14 ~~total cost the association is contributing is equal to or~~
15 ~~exceeds one-third of the total estimated state cost for a~~
16 ~~completed job. Associations may contribute financial~~
17 ~~assistance in addition to the contributions of labor or~~
18 ~~materials as specified in this subsection in order to reach~~
19 ~~their one-third contribution or to provide for completion of a~~
20 ~~project not completely financed by the provisions of the~~
21 ~~Sanitary Projects Act. Should an association enter into a loan~~
22 ~~agreement with the farmers home administration or its successor~~
23 ~~agency, the department may deposit the amount of any grant in-~~
24 ~~aid with the farmers home administration or its successor~~
25 ~~agency for the purpose of cooperating in the financing of a~~

.159133.2

1 ~~single contract covering one project.~~

2 ~~E. After the department has been satisfied that the~~
3 ~~prerequisites specified in Subsection B of this section have~~
4 ~~been complied with, the association shall be eligible for a~~
5 ~~grant-in-aid from the fund.~~

6 ~~F. Prior to approval of project plans and~~
7 ~~specifications by the department, such plans and specifications~~
8 ~~shall be submitted to and reviewed by the local government~~
9 ~~division of the department of finance and administration for~~
10 ~~conformity to countywide water and sewer plans. Approval of~~
11 ~~the plans by the local government division shall be a~~
12 ~~prerequisite to approval of the plans, specifications and~~
13 ~~contract documents by the department.]~~

14 C. After July 1, 2006, a new association may not be
15 formed as a capital stock corporation."

16 Section 5. Section 3-29-6 NMSA 1978 (being Laws 1965,
17 Chapter 300, Section 14-28-6, as amended) is amended to read:

18 "3-29-6. BOARD OF DIRECTORS--POWERS AND DUTIES.--

19 A. The board of directors of each association shall be
20 responsible for the ~~[acquiring]~~ acquisition or purchase of all
21 property, rights of way, equipment and materials as may be
22 necessary for the completion of ~~[the]~~ a project. The directors
23 ~~[acting in]~~ shall act on behalf of the association and as its
24 agents. The association, acting through its board of
25 directors, ~~[with the approval of the environmental improvement~~

1 ~~division~~] may exercise the right of eminent domain to take and
2 acquire the necessary property or rights of way for the
3 construction, maintenance and operation of water and sewer
4 lines and related facilities, but such property and rights of
5 way shall in all cases be so located as to do the least damage
6 to private and public property consistent with proper use and
7 economical construction. Such property or rights of way shall
8 be acquired in the manner provided by the Eminent Domain Code.
9 In accordance with Sections 42A-1-8 through 42A-1-12 NMSA 1978,
10 engineers, surveyors and other persons under contract with the
11 board for the purposes of the project shall have the right to
12 enter upon property of the state, its political subdivisions,
13 private persons and private and public corporations for the
14 purpose of making necessary surveys and examinations for
15 selecting and locating suitable routes for water and sewer
16 lines and facilities. ~~[Payments for such services, purchases~~
17 ~~and other purposes as are necessary shall be made from the fund~~
18 ~~upon voucher drawn by the secretary-treasurer of an association~~
19 ~~approved by the division and supported by warrant of the~~
20 ~~department of finance and administration drawn upon the state~~
21 ~~treasury.]~~

22 B. The board of directors of the association may set
23 and, from time to time, increase or adjust assessments, water
24 and sewer rates, tolls or charges for services or facilities
25 furnished or made available by the association. The

1 assessments, tolls and charges may include:

2 (1) membership fees;

3 (2) a base monthly service fee for each active
4 connection delivering water;

5 (3) a base monthly service fee for each
6 inactive connection;

7 (4) a standby charge for the privilege of
8 connecting into the association's water service at some date in
9 the future;

10 (5) assessments based on the volume of water
11 delivered;

12 (6) a connection charge; and

13 (7) an assessment necessary to cover the cost
14 of extending either water or sewer service.

15 C. The board of directors of the association may place
16 a lien on property to which services have been extended in the
17 amount of all outstanding assessments, charges and fees
18 associated with the services. The board of directors may
19 enforce the lien in a manner provided by the laws of the state.
20 In the event the board of directors is forced to enforce the
21 lien in a court of competent jurisdiction in New Mexico, the
22 board of directors shall be entitled to recover all costs and
23 attorney fees.

24 D. After notice is given, the board of directors of
25 the association shall shut off unauthorized connections,

1 illegal connections or a connection for which charges are
2 delinquent in payment. The board of directors may file suit in
3 a court of competent jurisdiction to recover costs associated
4 with an unauthorized or illegal connection or delinquent
5 connection, including the cost of water delivered, charges for
6 facility connection and disconnection, damages and attorney
7 fees.

8 E. The board of directors of the association shall
9 prescribe and enforce rules and regulations for the connection
10 to and disconnection from properties of facilities of the
11 association.

12 F. Each member of the board of directors of the
13 association shall complete training, as determined by rules of
14 the department."

15 Section 6. Section 3-29-7 NMSA 1978 (being Laws 1965,
16 Chapter 300, Section 14-28-7, as amended) is amended to read:

17 "3-29-7. ~~[CONDITIONS DEPARTMENT MAY REQUIRE BEFORE~~
18 ~~EXTENDING BENEFITS]~~ DEPARTMENT POWERS.--

19 A. Insofar as the department deems it necessary for
20 the purpose of the Sanitary Projects Act, the department may
21 ~~[as a condition to extending benefits under its provisions to~~
22 ~~any community or group of individuals]~~ recommend ~~[(1)]~~
23 agreements, ~~[or]~~ covenants or rules in regard to operation,
24 maintenance and permanent use of ~~[such lands, water or~~
25 ~~facilities benefited by a domestic water supply, sewers or~~

1 ~~treatment plant or any of them; provided that the water~~
2 ~~supplies developed shall not in any case be used for irrigation~~
3 ~~of commercial crops. The liquid effluent from sewage plants~~
4 ~~shall not be used for the irrigation of truck crops or fruits,~~
5 ~~and livestock shall not have access to sewage plant effluents;~~

6 ~~(2) contributions in cash by the association~~
7 ~~in addition to the contract for labor, materials or services as~~
8 ~~specified in Section 3-29-5 NMSA 1978; provided that the~~
9 ~~association's contribution shall always equal or exceed one-~~
10 ~~third of the total state cost; and~~

11 ~~(3) that the state cooperate and contribute~~
12 ~~financial aid according to the following schedules:~~

13 ~~(a) a maximum of seven thousand dollars~~
14 ~~(\$7,000) for each water project or for each sewer project where~~
15 ~~twenty-eight or fewer dwelling units are to be served; provided~~
16 ~~that no association shall be formed that shall not provide~~
17 ~~service for at least ten domestic dwelling units; and~~

18 ~~(b) two hundred fifty dollars (\$250) per~~
19 ~~dwelling unit where more than twenty-eight dwelling units are~~
20 ~~to be served; provided that the total allowable maximum state~~
21 ~~expenditure for each water project or for each sewer project~~
22 ~~shall not exceed twelve thousand dollars (\$12,000).~~

23 ~~B. A requisite to securing such allocation of funds~~
24 ~~upon a department recommendation shall be that the individuals~~
25 ~~either collectively or individually in an association shall~~

1 ~~agree to provide proper sewage disposal facilities for the~~
2 ~~sanitary removal of potentially harmful material classified as~~
3 ~~sewage, which shall be occasioned by the installation of~~
4 ~~running water facilities. Associations shall be eligible for~~
5 ~~construction grants as provided for in the Federal Water~~
6 ~~Pollution Control Act.~~

7 ~~C. No privy, cesspool, septic tank or other means of~~
8 ~~sewage disposal or treatment shall be located within one~~
9 ~~hundred fifty feet of any well, spring or other source of~~
10 ~~domestic water supply created under the provisions of the~~
11 ~~Sanitary Projects Act.~~

12 ~~D. The department may in its discretion and shall~~
13 ~~upon the petition of twenty-five percent of the users of a~~
14 ~~project hold a hearing and make a determination as to whether~~
15 ~~a sanitary project is being operated and managed in the best~~
16 ~~interest of all local citizens. If the department, after a~~
17 ~~hearing, determines that a project is not being operated or~~
18 ~~managed in the best interests of the local citizens, the~~
19 ~~department may intervene in the operation and management with~~
20 ~~full powers, including the power to set and collect~~
21 ~~assessments from members of the association, and use the same~~
22 ~~for the proper operation and management of the project] water~~
23 ~~supply, reclamation, storm drainage and wastewater~~
24 ~~facilities.~~

25 B. The department may:

1 (1) conduct periodic reviews of the
2 operation of the association;

3 (2) require the association to submit
4 information to the department;

5 (3) require submittal of financial reports
6 required pursuant to the Audit Act;

7 (4) review and require changes to the rate-
8 setting analysis described in Section 3-29-12 NMSA 1978;

9 (5) after a hearing, intervene in the
10 operation and management with full powers, including the
11 power to set and collect assessments from members of the
12 association, to set and collect service charges and use the
13 same for the proper operation and management of the
14 association; and

15 (6) appoint and delegate authority to a
16 representative to oversee operation of the association for a
17 specified period.

18 C. The department may in its discretion or shall,
19 upon a petition of twenty-five percent of the members of the
20 association, conduct investigations as it deems necessary to
21 determine if the association is being operated and managed in
22 the best interests of all the members of the association.

23 D. Whenever the department determines that a person
24 violated or is violating the Sanitary Projects Act or a
25 regulation adopted pursuant to that act, the department may:

1 (1) issue a compliance order requiring
2 compliance immediately or within a specified time period, or
3 both; or

4 (2) commence a civil action in district
5 court for appropriate relief, including injunctive relief.

6 E. A compliance order shall state with reasonable
7 specificity the nature of the violation.

8 F. If a person fails to take corrective actions
9 within the time specified in a compliance order, the
10 department may assess a civil penalty of not more than two
11 hundred fifty dollars (\$250) for each day of continued
12 noncompliance with the compliance order.

13 G. Any compliance order issued by the department
14 pursuant to this section shall become final unless, no later
15 than thirty days after the compliance order is served, any
16 person named in the compliance order submits a written
17 request to the department for a public hearing. The
18 department shall conduct a public hearing within ninety days
19 after receipt of a request.

20 H. The department may appoint an independent hearing
21 officer to preside over any public hearing held pursuant to
22 Subsection G of this section. The hearing officer shall:

23 (1) make and preserve a complete record of
24 the proceedings; and

25 (2) forward to the department a report that

1 includes recommendations, if recommendations are requested by
2 the department.

3 I. The department shall consider the findings of the
4 independent hearing officer and, based on the evidence
5 presented at the hearing, the department shall make a final
6 decision regarding the compliance order.

7 J. In connection with any proceeding under this
8 section, the department may:

9 (1) adopt rules for discovery and hearing
10 procedures; and

11 (2) issue subpoenas for the attendance and
12 testimony of witnesses and for relevant papers, books and
13 documents.

14 K. Penalties collected pursuant to this section
15 shall be deposited in the general fund."

16 Section 7. Section 3-29-9 NMSA 1978 (being Laws 1965,
17 Chapter 300, Section 14-28-9) is amended to read:

18 "3-29-9. RULES AND REGULATIONS [~~COOPERATION AND~~
19 ~~ASSISTANCE BY FEDERAL AND STATE AGENCIES~~].--For the purposes
20 of the Sanitary Projects Act, the department may [~~A.~~] perform
21 such acts and prescribe such rules and regulations as are
22 deemed necessary to carry out its provisions. [~~insofar as the~~
23 ~~public health is involved; and~~

24 ~~B. secure the cooperation and technical assistance~~
25 ~~of any federal or state agency and further may request that~~

1 ~~geological surveys be made by the state engineer to determine~~
2 ~~the feasibility of developing water supplies for specific~~
3 ~~projects]~~ Rules and regulations shall be drafted in
4 consultation with representatives of the associations."

5 Section 8. Section 3-29-12 NMSA 1978 (being Laws 1965,
6 Chapter 300, Section 14-28-12, as amended) is amended to
7 read:

8 "3-29-12. LOCAL ADMINISTRATION OF [PROJECTS]
9 ASSOCIATION--BOARD OF DIRECTORS [TERMS].--

10 A. The local administration of [~~any project~~] the
11 association and the operation and maintenance of the
12 [~~completed~~] project shall be carried out in each community by
13 a board of directors composed of [~~five~~] an odd number of at
14 least three members. Members of the board of directors
15 shall: [~~be elected biennially from the membership of the~~
16 ~~association for staggered terms of four years each, except~~
17 ~~that in the first election, which shall be held in 1970, the~~
18 ~~elected directors shall draw lots so that two of the~~
19 ~~directors shall serve first terms of two years each, after~~
20 ~~which the positions of the two directors ending in 1972 shall~~
21 ~~be filled by the election of two successor directors for full~~
22 ~~four-year terms. The purpose of the two-year first terms is~~
23 ~~to provide for a system of staggered four-year terms so that~~
24 ~~three directors will be elected in one year and two years~~
25 ~~later the other two directors shall be elected.]~~

1 (1) be elected annually or as specified in
2 the bylaws of the association;

3 (2) be members in good standing of the
4 association; and

5 (3) serve staggered terms of up to four
6 years to ensure that terms will end in different election
7 years.

8 B. The board of directors shall choose among its
9 members a president, a vice president and a secretary-
10 treasurer or a secretary and a treasurer.

11 C. ~~[The board of directors shall appoint a foreman~~
12 ~~to care for and regulate the association project or~~
13 ~~projects.] Funds [in an amount] sufficient to provide for~~
14 proper operation and maintenance of the association shall be
15 identified through a rate-setting analysis that will ensure
16 enough revenue to cover yearly expenses and emergencies, a
17 reserve fund for non-major capital items and equitable pay
18 for staff. The rate-setting analysis may be reviewed and
19 changed if necessary on a yearly basis, and the funds shall
20 be obtained by the association by a monthly assessment
21 against the users of the facilities, ~~[said]~~ the assessment to
22 be determined by the board of directors.

23 D. The board of directors of the association shall
24 have power to do all things necessary in the local
25 administration of any project subject to the provisions of

1 the Sanitary Projects Act.

2 [E. ~~The department shall require that an association~~
3 ~~shall be formed and a board of directors chosen before any~~
4 ~~community may participate in any benefits.~~]"

5 Section 9. Section 3-29-13 NMSA 1978 (being Laws 1965,
6 Chapter 300, Section 14-28-13) is amended to read:

7 "3-29-13. EXISTING ASSOCIATIONS [~~ELIGIBLE FOR~~
8 ~~ADDITIONAL BENEFITS~~].--Associations organized under the
9 provisions of Laws 1947, Chapter 206, Laws 1949, Chapter 79
10 or Laws 1951, Chapter 52 shall have the same powers and
11 duties as associations organized under the provisions of the
12 Sanitary Projects Act [~~and shall be eligible for benefits for~~
13 ~~construction of sewers and treatment plants without the~~
14 ~~necessity for organizing a new association~~]; provided that
15 the articles of incorporation shall be amended in accordance
16 with the provisions of Section [~~14-28-19 New Mexico Statutes~~
17 ~~Annotated, 1953 Compilation~~] 3-29-19 NMSA 1978."

18 Section 10. Section 3-29-15 NMSA 1978 (being Laws 1965,
19 Chapter 300, Section 14-28-15, as amended) is amended to
20 read:

21 "3-29-15. ASSOCIATION CONSTITUTES A PUBLIC BODY
22 CORPORATE [~~DEBTS--ISSUANCE OF BONDS~~].--[A.] Upon the filing
23 of each certificate and copy thereof as provided in Section
24 3-29-17 NMSA 1978, the persons so associating, their
25 successors and those who may thereafter become members of the

.159133.2

1 association constitute a public body corporate by the name
2 set forth in the certificate and by such name may sue and be
3 sued, have capacity to make contracts, acquire, hold, enjoy,
4 dispose of and convey property real and personal, accept
5 grants and donations, borrow money, incur indebtedness,
6 impose fees and assessments and do any other act or thing
7 necessary or proper for carrying out the purposes of their
8 organization.

9 ~~[B. Associations shall have power to become indebted~~
10 ~~or issue bonds in a form approved by the attorney general for~~
11 ~~expansion and improvement of the association's facilities by~~
12 ~~pledging future income from service charges. Such~~
13 ~~indebtedness by an association is contingent upon approval by~~
14 ~~the department and the department of finance and~~
15 ~~administration and upon a proper showing by the association~~
16 ~~to both departments that the indebtedness is for necessary~~
17 ~~refinancing, refunding, expansion or improvement purposes and~~
18 ~~that the financial condition and future income of the~~
19 ~~association warrant approval of such indebtedness or issuance~~
20 ~~of bonds by the association. No association has power to~~
21 ~~become indebted or issue bonds of any kind other than as~~
22 ~~permitted by this section.] "~~

23 Section 11. Section 3-29-16 NMSA 1978 (being Laws 1965,
24 Chapter 300, Section 14-28-16, as amended) is amended to
25 read:

1 "3-29-16. CERTIFICATE OF ASSOCIATION.--

2 A. The members of an association shall execute a
3 certificate setting forth:

4 (1) the name of the association;

5 (2) the name of the [~~incorporators~~]
6 individuals organizing the association;

7 (3) the location of the principal office of
8 the association in this state;

9 (4) the objects and purposes of the
10 association;

11 (5) the address of the initial registered
12 office of the association and the name of the initial
13 registered agent at that address;

14 (6) [~~the amount of capital stock and number~~
15 ~~and denomination of the shares or, if the incorporators do~~
16 ~~not desire to issue shares of stock~~] the plan and manner of
17 acquiring membership and of providing funds or means for the
18 acquisition, construction, improvement and maintenance of its
19 work and for its necessary expenses;

20 [~~(7) the period, if any, delimited for the~~
21 ~~duration of the association; and~~]

22 (7) the duration of existence of the
23 association, which may be perpetual;

24 (8) the number and manner of electing the
25 board of directors of the association and the length of the

.159133.2

1 terms that the directors will serve;

2 (9) the definition of a member of the
3 association and the voting rights associated with the
4 membership; and

5 (10) the manner of dissolution of the
6 association as a public body.

7 B. Pursuant to the registered agent requirement of
8 Paragraph (5) of Subsection A of this section, there shall be
9 attached to the certificate a statement executed by the
10 registered agent in which the agent acknowledges acceptance
11 of the appointment by the filing association, if the agent is
12 an individual, or a statement executed by an authorized
13 officer of a corporation in which the officer acknowledges
14 the corporation's acceptance of the appointment by the filing
15 association as its registered agent, if the agent is a
16 corporation.

17 C. The certificate or any amendment thereof made as
18 provided in Section 3-29-19 NMSA 1978 may also contain
19 provisions not inconsistent with the Sanitary Projects Act or
20 other law of this state that the ~~[incorporators]~~ organizers
21 may choose to insert for the regulation and conduct of the
22 business and affairs of the association. There shall
23 accompany each certificate a list ~~[of the names of all~~
24 ~~members of the association, the list]~~ to ~~[also]~~ show the
25 total number of members of the association and the total

1 number of dwelling units [~~that can be~~] served [~~if the project~~
2 ~~is completed~~] by the association at the time of filing."

3 Section 12. Section 3-29-17 NMSA 1978 (being Laws 1965,
4 Chapter 300, Section 14-28-17, as amended) is amended to
5 read:

6 "3-29-17. FILING OF CERTIFICATE AND BYLAWS.--The
7 certificate of association and bylaws shall be acknowledged
8 as required for deeds of real estate and shall be filed in
9 the office of the public regulation commission. A copy of
10 the certificate, duly certified by the commission or county
11 clerk, shall be evidence in all courts and places."

12 Section 13. Section 3-29-17.4 NMSA 1978 (being Laws
13 2001, Chapter 200, Section 7) is amended to read:

14 "3-29-17.4. ANNUAL REPORT.--

15 A. An association shall file, within the time
16 prescribed by the Sanitary Projects Act, on forms prescribed
17 and furnished by the public regulation commission to the
18 association not less than thirty days prior to the date the
19 report is due, an annual report setting forth:

20 (1) the name of the association [~~and the~~
21 ~~state or country under the laws of which it is incorporated~~];

22 (2) the address of the registered office of
23 the association in the state and the name of its registered
24 agent in this state at that address;

25 (3) a brief statement of the character of

1 the affairs that the association is actually conducting; and

2 (4) the names and respective addresses of
3 the directors and officers of the association.

4 B. The report shall be signed and sworn to by ~~any~~
5 two of the members of the association. If the association is
6 in the hands of a receiver or trustee, the report shall be
7 executed on behalf of the association by the receiver or
8 trustee. A copy of the report shall be maintained at the
9 association's principal place of business as contained in the
10 report and shall be made available to the general public for
11 inspection during regular business hours."

12 Section 14. Section 3-29-17.5 NMSA 1978 (being Laws
13 2001, Chapter 200, Section 8) is amended to read:

14 "3-29-17.5. FILING OF ANNUAL REPORT--SUPPLEMENTAL
15 REPORT--EXTENSION OF TIME--PENALTY.--

16 A. The annual report of the association shall be
17 delivered to the public regulation commission on or before
18 the fifteenth day of the fifth month following the end of its
19 ~~[taxable]~~ fiscal year.

20 B. A supplemental report shall be filed by the
21 association with the public regulation commission, if, within
22 thirty days after the filing of the annual report required
23 under the Sanitary Projects Act, a change is made in:

24 (1) the name of the association;

25 (2) the mailing address, street address or

1 the geographical location of the association's registered
2 office in this state and the name of the agent upon whom
3 process against the association may be served; or

4 (3) the character of the association's
5 business and its principal place of business within ~~[or~~
6 ~~without]~~ the state.

7 C. Proof to the satisfaction of the public
8 regulation commission that, prior to the due date of ~~[any]~~ a
9 report required by ~~[Subsections A or B of]~~ this section, the
10 report was deposited in the United States mail in a sealed
11 envelope, properly addressed, with postage prepaid, shall be
12 deemed compliance with the requirements of this section. If
13 the commission finds that the report conforms to the
14 requirements of the Sanitary Projects Act, it shall file the
15 report. If the commission finds that it does not conform, it
16 shall promptly return the report to the association for ~~[any]~~
17 necessary corrections. The penalties prescribed for failure
18 to file the report within the time provided shall not apply
19 if the report is corrected to conform to the requirements of
20 the Sanitary Projects Act and returned to the commission
21 within thirty days from the date on which it was mailed to
22 the association by the commission.

23 D. The public regulation commission may, upon
24 application by the association and for good cause shown,
25 extend, for no more than a total of twelve months, the date

1 on which [~~any return~~] an annual report required by the
2 provisions of the Sanitary Projects Act must be filed or the
3 date on which the payment of [~~any~~] a fee is required. The
4 commission shall, when an extension of time has been granted
5 an association under the [~~United States~~] federal Internal
6 Revenue Code of 1986 for the time in which to file a return,
7 grant the association the same extension of time to file the
8 required [~~return~~] annual report and to pay the required fees,
9 provided that a copy of the approved federal extension of
10 time is attached to the association's report, and provided
11 further that no such extension shall prevent the accrual of
12 interest as otherwise provided by law.

13 E. Nothing contained in this section prevents the
14 collection of a fee or penalty due upon the failure of an
15 association to submit the required report.

16 F. [~~No~~] An annual or supplemental report required to
17 be filed under this section shall not be deemed to have been
18 filed if the fees accompanying the report have been paid by
19 check and the check is dishonored upon presentation.

20 G. An association that fails or refuses to file a
21 report for a year within the time prescribed by the Sanitary
22 Projects Act is subject to a penalty of ten dollars (\$10.00)
23 to be assessed by the public regulation commission.

24 H. An association shall file with the department a
25 member accountability report that shall include:

1 (1) a financial statement prepared in
2 accordance with generally accepted accounting principles; and

3 (2) a copy of the Open Meetings Act
4 resolution stating what notice for a public meeting is
5 reasonable. The report shall be signed and sworn to as to
6 accuracy and completeness by all members of the board of
7 directors of the association. A statement shall be included
8 in the consumer confidence report required for water systems
9 that the member accountability report is available to the
10 public upon request. The member accountability report shall
11 be filed with the department with the consumer confidence
12 report no later than July 1 of each year."

13 Section 15. Section 3-29-19 NMSA 1978 (being Laws 1965,
14 Chapter 300, Section 14-28-19) is amended to read:

15 "3-29-19. AMENDMENT OF ~~[ARTICLES OF INCORPORATION]~~
16 CERTIFICATE OF ASSOCIATION AND BYLAWS--METHOD.--Every
17 association may ~~[change its name, increase or decrease its~~
18 ~~capital stock or membership, change the location of its~~
19 ~~principal office in this state, extend the period of its~~
20 ~~existence and]~~ make such ~~[other]~~ amendment, change or
21 alteration to its certificate of association or bylaws as may
22 be desired not inconsistent with the Sanitary Projects Act or
23 other law of this state by a resolution adopted by a vote of
24 a majority of the members present at any regular or special
25 meeting duly held upon such notice as the bylaws provide. A

1 certified copy of such resolution with the affidavit of the
2 president and secretary that [~~said~~] the resolution was duly
3 adopted by a majority vote of [~~such shareholders or~~] the
4 members at a meeting held in accordance with the provisions
5 of this section shall be filed and recorded as provided for
6 filing and recording the original certificate of
7 [~~incorporation~~] association and bylaws, and thereupon the
8 certificate of [~~incorporation~~] association and bylaws shall
9 be deemed to be amended accordingly, and a copy of such
10 certificate of amendment certified by the [~~state corporation~~]
11 public regulation commission or the county clerk shall be
12 accepted as evidence of each change or amendment in all
13 courts and places."

14 Section 16. Section 3-29-20 NMSA 1978 (being Laws 2000,
15 Chapter 56, Section 4) is amended to read:

16 "3-29-20. REORGANIZATION OF COOPERATIVE ASSOCIATIONS
17 AND NONPROFIT CORPORATIONS PURSUANT TO THE SANITARY PROJECTS
18 ACT.--

19 A. Cooperative associations formed pursuant to
20 Sections 53-4-1 through 53-4-45 NMSA 1978 and nonprofit
21 corporations formed under the Nonprofit Corporation Act may
22 reorganize under the Sanitary Projects Act upon approval of
23 the reorganization by a [~~two-thirds~~] majority vote of [~~the~~
24 ~~directors~~] a quorum of the members of a cooperative
25 association or nonprofit corporation. Notice of the meeting

1 to consider the reorganization and a copy of the proposed
2 certificate of association shall be sent at least fifteen
3 days prior to such meeting by the cooperative association to
4 each member at [~~his~~] the member's last known address and by
5 the nonprofit corporation to each member, if any, at [~~his~~]
6 the member's last known address. Upon approval of the
7 reorganization by the [~~two-thirds~~] majority vote of [~~the~~
8 ~~directors~~] a quorum of the members, the cooperative
9 association or the nonprofit corporation shall execute a
10 certificate of association pursuant to Sections 3-29-16 and
11 3-29-17 NMSA 1978. The certificate of association shall
12 state that it supersedes the articles of incorporation and
13 all amendments to the articles of incorporation of the
14 cooperative association or the nonprofit corporation.

15 B. Duplicate originals of the certificate of
16 association shall be filed with the public regulation
17 commission. One duplicate original of the certificate of
18 association shall be returned to the association.

19 C. The certificate of association is effective upon
20 filing and supersedes the articles of incorporation and all
21 amendments to the articles of incorporation of the prior
22 cooperative association or nonprofit corporation. The
23 association shall:

24 (1) be the surviving entity, and the
25 separate existence of the prior cooperative association or

1 nonprofit corporation shall cease;

2 (2) have all of the rights, privileges,
3 immunities and powers and shall be subject to all the duties
4 and liabilities of an association organized pursuant to the
5 Sanitary Projects Act;

6 (3) possess all the rights, privileges,
7 immunities and franchises of the prior cooperative
8 association or nonprofit corporation. All property, real,
9 personal and mixed; all debts due on whatever account; all
10 other choses in action; and all and every other interest of
11 or belonging to or due to the prior cooperative association
12 or nonprofit corporation shall be taken and deemed to be
13 transferred to and vested in the association without further
14 act or deed. The title to any real estate, or any interest
15 therein, vested in the prior cooperative association or
16 nonprofit corporation shall not revert or be in any way
17 impaired by reason of the reorganization; and

18 (4) be liable for all the liabilities and
19 obligations of the prior cooperative association or nonprofit
20 corporation, and any claim existing or action or proceeding
21 pending by or against the cooperative association or
22 nonprofit corporation may be prosecuted as if the
23 reorganization had not taken place or the new association may
24 be substituted in its place. Neither the rights of creditors
25 nor any liens upon the property of the cooperative

1 association or nonprofit corporation shall be impaired by the
2 reorganization.

3 D. A cooperative association formed pursuant to the
4 Cooperative Association Act or nonprofit corporation formed
5 pursuant to the Nonprofit Corporation Act that reorganized
6 under Subsection A of this section prior to June 30, 2006
7 may, within three years of the effective date of this 2006
8 act, reorganize pursuant to the act under which it had
9 previously been organized upon approval of the reorganization
10 by a two-thirds' vote of the directors of the association or
11 corporation. Notice of the meeting to consider the
12 reorganization and a copy of the proposed articles of
13 incorporation shall be sent by the association or the
14 corporation at least fifteen days prior to the meeting to
15 each member at the member's last known address. Upon
16 approval of the reorganization, the association or
17 corporation shall execute articles of incorporation pursuant
18 to Sections 53-4-5 and 53-4-6 or 53-8-31 and 53-8-32 NMSA
19 1978. The articles of incorporation shall state that they
20 supersede the certificate of association or incorporation and
21 all amendments thereto of the association or corporation and
22 shall follow the filing procedures of Subsections B and C of
23 this section."

24 Section 17. A new section of the Sanitary Projects Act
25 is enacted to read:

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1 "[NEW MATERIAL] BYLAWS.--

2 A. Members shall adopt bylaws by no less than a
3 majority vote of a quorum of the membership of the
4 association setting forth:

5 (1) the name of the association;

6 (2) the requirement of an association seal;

7 (3) the fiscal year of the association;

8 (4) guidelines for membership, which shall
9 include the sentence "Membership shall not be denied because
10 of the applicant's race, color, creed, national origin or
11 sex.";

12 (5) guidelines for meetings of the
13 membership, which shall include the date or time period of a
14 membership meeting, required notice of a meeting,
15 establishment of a quorum and the order of business to be
16 conducted at a meeting of the membership;

17 (6) the functions of the board of directors,
18 including a conflict of interest policy for the board;

19 (7) the duties of officers of the board of
20 directors; and

21 (8) provisions for the board of directors to
22 establish rules and regulations to govern the day-to-day
23 operations of the project, including a code of conduct for
24 staff and provisions to establish an annual budget, rate
25 structure, assessments and reserve funds.

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1 B. The bylaws, or any amendment thereof made as
2 provided in Section 3-29-19 NMSA 1978, may also contain
3 provisions not inconsistent with the Sanitary Projects Act or
4 other law of this state that the organizers may choose to
5 insert for the regulation and conduct of the business and
6 affairs of the association.

7 C. The department may prescribe by rule or
8 regulation guidelines for bylaws and rules and regulations of
9 an association."

10 Section 18. A new section of the Sanitary Projects Act
11 is enacted to read:

12 "[NEW MATERIAL] EXEMPTIONS FROM SPECIAL DISTRICT
13 PROCEDURES ACT PROVISIONS.--An association formed pursuant to
14 the provisions of the Sanitary Projects Act may be formed
15 exclusively as provided in that act, and formation of the
16 association shall be exempt from all review and requirements
17 set forth in the Special Districts Procedures Act."

18 Section 19. A new section of the Sanitary Projects Act
19 is enacted to read:

20 "[NEW MATERIAL] MERGER OF TWO OR MORE ASSOCIATIONS INTO
21 ONE ASSOCIATION.--Upon approval by vote of a majority of a
22 quorum of each membership, two or more associations may merge
23 into one association pursuant to a plan of merger approved in
24 the manner provided in state law. The board of directors of
25 each association shall, by resolution adopted by each board,

1 approve a plan of merger setting forth:

2 A. the names of the associations proposing to merge,
3 and the associations into which they propose to merge, which
4 is hereinafter designated as the "surviving association";

5 B. the terms and conditions of the proposed merger,
6 including transfer of assets and liabilities;

7 C. the manner and basis of converting each
8 association's obligations or other securities into the
9 surviving association;

10 D. a statement of any changes in the articles of
11 incorporation of the surviving association to be affected by
12 the merger; and

13 E. other provisions with respect to the proposed
14 merger as deemed necessary or desirable."

15 Section 20. REPEAL.--Sections 3-29-8, 3-29-10 and
16 3-29-18 NMSA 1978 (being Laws 1965, Chapter 300, Sections
17 14-28-8, 14-28-10 and 14-28-18, as amended) are repealed.

18 Section 21. SEVERABILITY.--If any part or application
19 of this act is invalid, the remainder of its application to
20 other situations or persons shall not be affected.

21 Section 22. EMERGENCY.--It is necessary for the public
22 peace, health and safety that this act take effect
23 immediately.

underscored material = new
[bracketed material] = delete

SENATE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER; PROVIDING FOR STATE ENGINEER ENFORCEMENT OF
COMPLIANCE ORDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 72-2-18 NMSA 1978 (being Laws 2001,
Chapter 143, Section 1) is amended to read:

"72-2-18. STATE ENGINEER--ENFORCEMENT--COMPLIANCE
ORDERS--PENALTY.--

A. When a person, pursuant to a finding of fact,
violates a requirement or prohibition of Chapter 72 NMSA 1978,
a [rule] directive adopted by the state engineer pursuant to
[those laws] Section 72-2-8 NMSA 1978, a condition of a permit
or license issued by the state engineer pursuant to [those
laws] law or an order entered by a court adjudicating a water
right, the state engineer may, in addition to any other

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1 remedies available under law, issue a compliance order stating
2 with reasonable specificity the nature of the violation and
3 requiring compliance within a specified time period.

4 B. This section shall not be construed to affect or
5 interfere with the jurisdiction of an irrigation district, a
6 federal court or an Indian nation, tribe or pueblo to enforce
7 its orders and decrees pertaining to water rights.

8 C. A compliance order may include an order to cease
9 the violation of a [~~permit or license or portion of a permit or~~
10 ~~license issued by the state engineer. A compliance order~~
11 ~~issued for overddiversion or illegal diversion of water may~~
12 ~~require repayment of water in an amount up to double the amount~~
13 ~~of the overddiversion or illegal diversion and installation of a~~
14 ~~measuring device prior to any future diversion of water. In~~
15 ~~determining the amount of repayment of water, the state~~
16 ~~engineer shall take into account the seriousness of the~~
17 ~~violation, any good faith efforts to comply with the applicable~~
18 ~~requirements and other relevant factors]~~ requirement or
19 prohibition of Chapter 72 NMSA 1978, a directive issued in
20 accordance with the provisions of Section 72-2-8 NMSA 1978, a
21 condition of a permit or license issued by the state engineer
22 or an order entered by a court adjudicating a water right.

23 D. The state engineer shall provide an opportunity for
24 the person named in the compliance order [~~an opportunity to~~
25 ~~contest informally the alleged violation with the office of the~~

1 ~~state engineer and a public hearing pursuant to Sections 72-2-~~
2 ~~16 and 72-2-17 NMSA 1978. If the person wants a public~~
3 ~~hearing, he shall submit a written request no later than thirty~~
4 ~~days after issuance of a compliance order by certified mail,~~
5 ~~return receipt requested, or serve a notice of appeal upon the~~
6 ~~state engineer, in accordance with Section 72-7-1 NMSA 1978,~~
7 ~~within thirty days after receipt of a compliance order. A~~
8 ~~compliance order is final upon action by the state engineer~~
9 ~~within thirty days after a public hearing or within thirty days~~
10 ~~of an appeal pursuant to Section 72-7-1 NMSA 1978.~~

11 ~~E. The state engineer shall not seek enforcement of a~~
12 ~~compliance order until it is final]~~ to have a hearing on the
13 alleged violation pursuant to Section 72-2-16 NMSA 1978. A
14 hearing shall be held if a written request is made to the state
15 engineer within thirty days after receipt of notice of the
16 compliance order sent by certified mail. A compliance order
17 issued pursuant to this section shall become final unless the
18 person named in the order submits a written request for a
19 hearing to the state engineer within thirty days of receipt of
20 the order. Nothing in this section shall prohibit the person
21 named in the order from pursuing an informal resolution of the
22 matter after a timely request for hearing has been made.

23 E. A compliance order may require repayment of water
24 that was overdiverted or illegally diverted. Repayment of
25 water may be up to double the amount of the overdiversion or

1 illegal diversion. In determining the repayment of water
2 beyond the amount overdiverted or illegally diverted, the state
3 engineer shall take into consideration the seriousness of the
4 violation, any good faith efforts to comply with the applicable
5 requirements and any other relevant factors. Installation of a
6 measuring device may be required prior to any future diversion
7 of water.

8 F. Any appeal to district court shall be conducted
9 pursuant to [~~Chapter 72, Article 7~~] Sections 72-2-16 and 72-7-1
10 NMSA 1978.

11 [~~F.~~] G. The state engineer may assess a civil penalty
12 of up to one hundred dollars (\$100) per day for violation of a
13 [~~final~~] compliance order.

14 [~~G.~~] H. If a [~~final compliance order is issued and~~
15 ~~the~~] person does not comply with a compliance order, the state
16 engineer may file a civil action to enforce the compliance
17 order and receive any of the remedies provided in this section,
18 including injunctive relief."

19 Section 2. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is May 18, 2006.

HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

DISCUSSION DRAFT

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE OFFICE OF THE STATE ENGINEER FOR
WATER MASTERS FOR ADMINISTRATION OF THE ACTIVE WATER MANAGEMENT
PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One million dollars
(\$1,000,000) is appropriated from the general fund to the
office of the state engineer for expenditure in fiscal year
2007 to pay the costs of employing water masters for the
administration of the active water management program. Any
unexpended or unencumbered balance remaining at the end of
fiscal year 2007 shall revert to the general fund.

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HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

DISCUSSION DRAFT

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR THE SALT CEDAR REMOVAL AND RIPARIAN
RESTORATION AND FOREST HEALTH MANAGEMENT PROGRAMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--

A. Ten million dollars (\$10,000,000) is appropriated
from the general fund for expenditure in fiscal year 2007 to
the following entities in the following amounts:

(1) eight million dollars (\$8,000,000) to the
board of regents of New Mexico state university for the soil
and water conservation commission to manage and administer a
salt cedar removal and riparian restoration program; and

(2) two million dollars (\$2,000,000) to the
forestry division of the energy, minerals and natural resources
department for the forest health management program.

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B. Any unexpended or unencumbered balance remaining at
the end of fiscal year 2007 shall revert to the general fund.

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SENATE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

DISCUSSION DRAFT

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR WATER RIGHTS ADJUDICATIONS;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One hundred million dollars (\$100,000,000) is appropriated from the general fund to the office of the state engineer for expenditure in fiscal years 2006 and 2007 to pay the costs of water rights adjudications. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.
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SENATE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

DISCUSSION DRAFT

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A CLOUD SEEDING PROGRAM IN THE
JEMEZ Y SANGRE REGIONAL WATER PLANNING DISTRICT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One million four hundred
thousand dollars (\$1,400,000) is appropriated from the general
fund to the interstate stream commission for expenditure in
fiscal year 2007 to conduct a demonstration cloud seeding
program in the Jemez y Sangre regional water planning district.
Any unexpended or unencumbered balance remaining at the end of
fiscal year 2007 shall revert to the general fund.

.159151.1

HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

DISCUSSION DRAFT

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO AGRICULTURE; ENACTING THE SMALL AGRICULTURAL
PRODUCER REVOLVING LOAN FUND ACT; CREATING A FUND TO PROVIDE
MATCHING FUNDS FOR FEDERAL CONSERVATION GRANTS; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Small Agricultural Producer Revolving Loan Fund Act".

Section 2. DEFINITIONS.--As used in the Small
Agricultural Producer Revolving Loan Fund Act:

A. "department" means the New Mexico department of
agriculture;

B. "fund" means the small agricultural producer
revolving loan fund; and

C. "small agricultural producer" means a farmer or

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1 rancher who has a traceable tax record of agricultural
2 production and who qualifies as a federal natural resources
3 conservation service limited resource producer.

4 Section 3. SMALL AGRICULTURAL PRODUCER REVOLVING LOAN
5 FUND CREATED.--

6 A. The "small agricultural producer revolving loan
7 fund" is created in the New Mexico finance authority to provide
8 low-interest, long-term loans to small agricultural producers
9 to match federal conservation grants. The fund shall consist
10 of appropriations, gifts, grants and donations to the fund,
11 which shall be invested as provided in the New Mexico Finance
12 Authority Act. Money in the fund shall not revert at the end
13 of a fiscal year and is appropriated to the department, which
14 shall use the fund for the purposes of the Small Agricultural
15 Producer Revolving Loan Fund Act. Administrative costs of the
16 authority may be paid from the fund. Expenditures from the
17 fund for loans to small agricultural producers shall be made
18 upon warrants of the secretary of finance and administration
19 pursuant to vouchers signed by the director of the department
20 or the director's designee.

21 B. Money in the fund shall be used to make loans to
22 small agricultural producers who undertake projects to conserve
23 natural resources.

24 C. No more than twenty percent of the fund may be
25 loaned to a single small agricultural producer in a single

1 loan. A small agricultural producer who has received a loan
2 from the fund in the immediately preceding five years or who
3 has not completed repayment of a previous loan from the fund is
4 ineligible for a new loan.

5 D. The department, in conjunction with the New Mexico
6 finance authority, shall adopt rules to administer and
7 implement the Small Agricultural Producer Revolving Loan Fund
8 Act. The rules shall be filed in accordance with the State
9 Rules Act.

10 Section 4. APPROPRIATION.--Two hundred fifty thousand
11 dollars (\$250,000) is appropriated from the general fund to the
12 small agricultural producer revolving loan fund for expenditure
13 in fiscal year 2007 and subsequent fiscal years to carry out
14 the purposes of the Small Agricultural Producer Revolving Loan
15 Fund Act. Any unexpended or unencumbered balance remaining at
16 the end of a fiscal year shall not revert.

SENATE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

DISCUSSION DRAFT

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER; AMENDING A SECTION OF THE NMSA 1978 TO
EXTEND ELIGIBILITY FOR THE FORTY-YEAR WATER USE PLANNING PERIOD
TO SCHOOL DISTRICTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 72-1-9 NMSA 1978 (being Laws 1985,
Chapter 198, Section 1, as amended) is amended to read:

"72-1-9. MUNICIPAL, COUNTY, MEMBER-OWNED COMMUNITY WATER
SYSTEMS, SCHOOL DISTRICT AND STATE UNIVERSITY WATER DEVELOPMENT
PLANS--PRESERVATION OF MUNICIPAL, COUNTY AND STATE UNIVERSITY
WATER SUPPLIES.--

A. It is recognized by the state that it promotes the
public welfare and the conservation of water within the state
for municipalities, counties, school districts, state
universities, member-owned community water systems, special

.159153.1

1 water users' associations and public utilities supplying water
2 to municipalities, schools or counties to plan for the
3 reasonable development and use of water resources. The state
4 further recognizes the state engineer's administrative policy
5 of not allowing municipalities, member-owned community water
6 systems, counties and state universities to acquire and hold
7 unused water rights in an amount greater than their reasonable
8 needs within forty years.

9 B. Municipalities, counties, school districts, state
10 universities, member-owned community water systems, special
11 water users' associations and public utilities supplying water
12 to municipalities, schools or counties shall be allowed a water
13 use planning period not to exceed forty years, and water rights
14 for municipalities, counties, school districts, state
15 universities, member-owned community water systems, special
16 water users' associations and public utilities supplying water
17 to such municipalities, schools or counties shall be based upon
18 a water development plan the implementation of which shall not
19 exceed a forty-year period from the date of the application for
20 an appropriation or a change of place or purpose of use
21 pursuant to a water development plan or for preservation of a
22 municipal, county, school district, member-owned community
23 water system or state university water supply for reasonably
24 projected additional needs within forty years."

HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

DISCUSSION DRAFT

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR THE WATER TRUST FUND; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One hundred million dollars
(\$100,000,000) is appropriated from the general fund to the
water trust fund for expenditure in fiscal year 2006 and
subsequent fiscal years to carry out the purposes of the Water
Project Finance Act. Any unexpended or unencumbered balance
remaining at the end of a fiscal year shall not revert to the
general fund.

Section 2. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect immediately.

.159043.1

HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

DISCUSSION DRAFT

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR WATER RIGHTS ADJUDICATIONS;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One hundred million dollars (\$100,000,000) is appropriated from the general fund to the office of the state engineer for expenditure in fiscal years 2006 and 2007 to pay the costs of water rights adjudications. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.
.159042.1

HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

DISCUSSION DRAFT

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR WATER PROJECTS OF STATEWIDE
SIGNIFICANCE; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--

A. Two hundred eighty million dollars (\$280,000,000)
is appropriated from the general fund to the office of the
state engineer for expenditure in fiscal years 2006 and 2007 to
initiate, plan and implement the following projects in the
following amounts:

(1) seventy-five million dollars (\$75,000,000)
for Indian water rights and regional community settlements,
including the Navajo, Taos and Aamodt settlements;

(2) forty-eight million dollars (\$48,000,000)
for the Pecos river settlement;

.159154.1

1 (3) thirty million dollars (\$30,000,000) for
2 the middle Rio Grande collaborative program;

3 (4) seven million dollars (\$7,000,000) for the
4 Gila river settlement;

5 (5) seventy million dollars (\$70,000,000) for
6 the Ute pipeline project; and

7 (6) fifty million dollars (\$50,000,000) for
8 acequia and dam safety improvements statewide.

9 B. Any unexpended or unencumbered balance remaining at
10 the end of fiscal year 2007 shall revert to the general fund.

11 Section 2. EMERGENCY.--It is necessary for the public
12 peace, health and safety that this act take effect immediately.

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